



Reprinted  
March 2, 2006

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## ENGROSSED HOUSE BILL No. 1008

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DIGEST OF HB 1008 (Updated March 1, 2006 7:30 pm - DI 44)

**Citations Affected:** IC 4-4; IC 4-22; IC 5-10.3; IC 6-3; IC 8-14; IC 8-15; IC 8-15.5; IC 8-23; IC 9-13; IC 9-21; IC 34-13; noncode.

**Synopsis:** Public-private agreements for transportation. Establishes a process to withdraw state employees from the public employees' retirement fund (fund) and allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. Establishes a refundable income tax credit for tolls paid by individuals for use of the Indiana toll road for a nonbusiness purpose. Provides that the amount of the credit is the lesser of one-half of the tolls paid or \$300. Amends the current laws concerning toll roads and adds new provisions to authorize the finance authority (authority) to enter into public-private agreements with  
(Continued next page)

**Effective:** Upon passage; December 31, 2005 (retroactive); July 1, 2006.

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**Borrer, Duncan, Torr, Buck, Davis,  
Cherry, Crouch, Woodruff**

(SENATE SPONSORS — MEEKS, HERSHMAN, WYSS)

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January 10, 2006, read first time and referred to Committee on Ways and Means.  
January 25, 2006, amended, reported — Do Pass; Roll Call 42: yeas 50, nays 46.  
January 31, 2006, read second time, amended, ordered engrossed.  
February 1, 2006, engrossed. Read third time, passed. Yeas 52, nays 47.

SENATE ACTION

February 6, 2006, read first time and referred to Committee on Appropriations.  
February 23, 2006, amended, reported favorably — Do Pass.  
March 1, 2006, read second time, amended, ordered engrossed.

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private entities (operators) concerning toll road projects. Imposes certain conditions on the ability of the authority to enter into a public-private agreement after August 1, 2006, if the agreement would authorize the imposition of tolls. Provides that a public-private agreement may be for any combination of the planning, acquisition, construction, improvement, extension, operation, repair, maintenance, and financing of projects. Provides that a public-private agreement is subject to the approval of the governor after review by the budget committee. Establishes procedures for selection of operators by the authority. Permits the authority to establish user fees and tolls under a public-private agreement, including maximum tolls and user fees and criteria for the adjustment of those maximums. Provides that, with the approval of the budget director after review by the budget committee, a public-private agreement may include a moral obligation of the state to pay certain costs incurred under the agreement. Provides that a public-private agreement may include provisions concerning electronic toll collection systems and photo or video based toll collection enforcement systems. Authorizes the authority to adopt emergency rules concerning user fees under a public-private agreement and enforcement procedures and assessments for failure to pay required tolls, including electronic and photo or video based collection enforcement. Deletes the requirement for certain payments to the RDA from toll road revenues or the state general fund. Provides that property leased or acquired by an operator for a public-private project is exempt from property taxes. Provides that an operator's income from a public-private agreement is subject to taxation in the same manner as income received by other private entities. Provides that revenues from a public-private agreement with respect to a toll road shall be deposited in the toll road fund and used to: (1) retire certain outstanding bonds; (2) pay amounts owed by the authority with respect to a public-private agreement; and (3) distribute \$400,000,000 to the next generation trust fund. Provides that the remaining money in the toll road fund is to be distributed to the major moves construction fund. Establishes the major moves construction fund and provides for distributions from that fund for various purposes to cities, towns, counties, the northwest Indiana regional development authority (RDA), the department of transportation (INDOT), and the state general fund. Permits the budget agency, after budget committee review, to augment distributions from the major moves construction fund to INDOT. Provides that the total amount of distributions from the major moves construction fund for projects or purposes that benefit a county traversed by the Indiana toll road may not be less than 34% of the money received by the authority under a public-private agreement concerning the Indiana toll road. Provides that the budget agency is responsible for determining the amount necessary to comply with the 34% requirement. Establishes the next generation trust fund and provides for distributions to the major moves construction fund after the balance in the trust fund reaches \$1,000,000,000. Prohibits the operator under a public-private agreement or a person having at least a 1% interest in the operator from making political contributions to state, local, or legislative candidates or certain political committees. Provides that the route of certain toll road or tollway projects may not terminate in certain townships. Provides that INDOT may not convert a state highway to a toll road or a tollway unless the general assembly adopts a statute approving the conversion. Makes technical corrections and conforming amendments.

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Reprinted  
March 2, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1008

A BILL FOR AN ACT to amend the Indiana Code concerning transportation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 4-4-10.9-1.2, AS ADDED BY P.L.235-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that  
4 grant a power to or impose a duty on the authority, including but not  
5 limited to IC 4-4-11, **IC 4-4-11.4**, IC 4-4-21, IC 4-13.5, IC 8-1-33,  
6 IC 8-9.5, IC 8-14.5, IC 8-15, **IC 8-15.5**, IC 8-16, IC 13-18-13,  
7 IC 13-18-21, IC 13-19-5, IC 14-14, and IC 15-7-5.  
8 SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.235-2005,  
9 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking  
11 action resulting in any of the following rules:  
12 (1) An order adopted by the commissioner of the Indiana  
13 department of transportation under IC 9-20-1-3(d) or  
14 IC 9-21-4-7(a) and designated by the commissioner as an  
15 emergency rule.

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- 1 (2) An action taken by the director of the department of natural  
2 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 3 (3) An emergency temporary standard adopted by the  
4 occupational safety standards commission under  
5 IC 22-8-1.1-16.1.
- 6 (4) An emergency rule adopted by the solid waste management  
7 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 8 (5) A rule, other than a rule described in subdivision (6), adopted  
9 by the department of financial institutions under IC 24-4.5-6-107  
10 and declared necessary to meet an emergency.
- 11 (6) A rule required under IC 24-4.5-1-106 that is adopted by the  
12 department of financial institutions and declared necessary to  
13 meet an emergency under IC 24-4.5-6-107.
- 14 (7) A rule adopted by the Indiana utility regulatory commission to  
15 address an emergency under IC 8-1-2-113.
- 16 (8) An emergency rule adopted by the state lottery commission  
17 under IC 4-30-3-9.
- 18 (9) A rule adopted under IC 16-19-3-5 that the executive board of  
19 the state department of health declares is necessary to meet an  
20 emergency.
- 21 (10) An emergency rule adopted by the Indiana ~~transportation~~  
22 finance authority under IC 8-21-12.
- 23 (11) An emergency rule adopted by the insurance commissioner  
24 under IC 27-1-23-7.
- 25 (12) An emergency rule adopted by the Indiana horse racing  
26 commission under IC 4-31-3-9.
- 27 (13) An emergency rule adopted by the air pollution control  
28 board, the solid waste management board, or the water pollution  
29 control board under IC 13-15-4-10(4) or to comply with a  
30 deadline required by federal law, provided:  
31 (A) the variance procedures are included in the rules; and  
32 (B) permits or licenses granted during the period the  
33 emergency rule is in effect are reviewed after the emergency  
34 rule expires.
- 35 (14) An emergency rule adopted by the Indiana election  
36 commission under IC 3-6-4.1-14.
- 37 (15) An emergency rule adopted by the department of natural  
38 resources under IC 14-10-2-5.
- 39 (16) An emergency rule adopted by the Indiana gaming  
40 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 41 (17) An emergency rule adopted by the alcohol and tobacco  
42 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or

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IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

**(30) A rule adopted by the Indiana finance authority:**

**(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;**

**(B) under IC 8-15-2-17.2(a)(10):**

**(i) establishing enforcement procedures; and**

**(ii) making assessments for failure to pay required tolls;**

**or**

**(C) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.**

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the

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1 agency, the agency shall submit the rule to the publisher for the  
 2 assignment of a document control number. The agency shall submit the  
 3 rule in the form required by section 20 of this chapter and with the  
 4 documents required by section 21 of this chapter. The publisher shall  
 5 determine the number of copies of the rule and other documents to be  
 6 submitted under this subsection.

7 (d) After the document control number has been assigned, the  
 8 agency shall submit the rule to the secretary of state for filing. The  
 9 agency shall submit the rule in the form required by section 20 of this  
 10 chapter and with the documents required by section 21 of this chapter.  
 11 The secretary of state shall determine the number of copies of the rule  
 12 and other documents to be submitted under this subsection.

13 (e) Subject to section 39 of this chapter, the secretary of state shall:

14 (1) accept the rule for filing; and

15 (2) file stamp and indicate the date and time that the rule is  
 16 accepted on every duplicate original copy submitted.

17 (f) A rule described in subsection (a) takes effect on the latest of the  
 18 following dates:

19 (1) The effective date of the statute delegating authority to the  
 20 agency to adopt the rule.

21 (2) The date and time that the rule is accepted for filing under  
 22 subsection (e).

23 (3) The effective date stated by the adopting agency in the rule.

24 (4) The date of compliance with every requirement established by  
 25 law as a prerequisite to the adoption or effectiveness of the rule.

26 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,  
 27 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in  
 28 subsections (j), ~~and~~ (k), ~~and~~ (l), a rule adopted under this section  
 29 expires not later than ninety (90) days after the rule is accepted for  
 30 filing under subsection (e). Except for a rule adopted under subsection  
 31 (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by  
 32 adopting another rule under this section, but only for one (1) extension  
 33 period. The extension period for a rule adopted under subsection  
 34 (a)(28) may not exceed the period for which the original rule was in  
 35 effect. A rule adopted under subsection (a)(13) may be extended for  
 36 two (2) extension periods. Subject to subsection (j), a rule adopted  
 37 under subsection (a)(24), (a)(25), or (a)(27) may be extended for an  
 38 unlimited number of extension periods. Except for a rule adopted under  
 39 subsection (a)(13), for a rule adopted under this section to be effective  
 40 after one (1) extension period, the rule must be adopted under:

41 (1) sections 24 through 36 of this chapter; or

42 (2) IC 13-14-9;

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as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

**(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.**

SECTION 3. IC 5-10.3-6-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.7. (a) This section applies when certain employees of the state, in particular departmental, occupational, or other definable classifications, are terminated from employment with the state as a result of:**

**(1) a lease, or other transfer, of state property or property of a body corporate and politic to a nongovernmental entity; or**

**(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.**

**(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).**

**(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (i), federal or state law, or the terms of the fund.**

**(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:**

**(1) is at least fifty (50) years of age; and**

**(2) has at least fifteen (15) years of creditable service.**

**(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:**

**(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;**

**(2) the member is at least sixty (60) years of age and has at**

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1 least fifteen (15) years of creditable service; or  
 2 (3) the member's age in years plus the member's years of  
 3 service is at least eighty-five (85) and the member is at least  
 4 fifty-five (55) years of age.

5 (f) The withdrawal of the employees described in subsection (a)  
 6 from the fund is effective on a termination date established by the  
 7 board. The board may not establish a termination date that occurs  
 8 before all of the following have occurred:

9 (1) The governor has requested coverage under this section  
 10 and provided written notice of the following to the board:

11 (A) The intent of the state to terminate the employees from  
 12 employment.

13 (B) The names of the terminated employees as of the date  
 14 that the termination is to occur.

15 (2) The expiration of a thirty (30) day period following the  
 16 filing of the notice with the board.

17 (3) The state complies with subsection (g).

18 (g) A member who is covered by subsection (f) and who, as of  
 19 the date of the notice under subsection (f), is less than twenty-four  
 20 (24) months from being eligible for normal or early retirement  
 21 under IC 5-10.2-4-1 may elect to retire by purchasing the service  
 22 credit needed for retirement under the following conditions:

23 (1) The state shall contribute to the fund an amount  
 24 determined under IC 5-10.2-3-1.2 and payable from the  
 25 sources described in subsection (h) sufficient to pay the  
 26 member's contributions required for the member's purchase  
 27 of the service credit the member needs to retire.

28 (2) The maximum amount of creditable service that the state  
 29 may purchase for a member under this subsection is  
 30 twenty-four (24) months.

31 (3) The benefit for the member shall be computed under  
 32 IC 5-10.2-4-4 using the member's actual years of creditable  
 33 service plus all other service for which the fund gives credit,  
 34 including the creditable service purchased under this  
 35 subsection.

36 (h) The amounts that the state is required to contribute to the  
 37 fund under subsection (g) must come from the following sources:

38 (1) If the state receives monetary payments under the lease or  
 39 contractual arrangement described in subsection (a), the  
 40 proceeds of the monetary payments received by the state. The  
 41 state may not require, as a condition of the transaction to  
 42 transfer state property or have certain state functions

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performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (g).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (g), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (g) in the next biennial state budget.

(i) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 4. IC 6-3-3-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) An individual is entitled to a credit under this section against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for each taxable year ending before January 1, 2017. The amount of the credit is equal to the lesser of:

(1) one-half (1/2) of the amount of the tolls paid by the individual after June 30, 2006, and during the taxable year to drive a vehicle with two (2) axles, including a motorcycle, on the Indiana toll road for a nonbusiness purpose; or

(2) three hundred dollars (\$300).

(b) Notwithstanding subsection (a), a husband and wife filing a joint adjusted gross income tax return for a particular taxable year may not claim a credit of more than three hundred dollars (\$300) under this section.

(c) If a credit claimed under this section exceeds an individual's total tax liability incurred under the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7, the excess shall be refunded to the individual.

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(d) To receive the credit provided by this section, an individual must claim the credit in the manner prescribed by the department. The individual shall submit to the department all information that the department determines is necessary for the calculation of the credit provided by this section.

SECTION 5. IC 8-14-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 14. Major Moves Construction Fund**

**Sec. 1.** As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

**Sec. 2.** As used in this chapter, "department" refers to the Indiana department of transportation.

**Sec. 3.** As used in this chapter, "fund" refers to the major moves construction fund established by section 5 of this chapter.

**Sec. 4.** As used in this chapter, "transportation plan" refers to the department's long range comprehensive transportation plan developed under IC 8-23-2-5.

**Sec. 5. (a)** The major moves construction fund is established for the purpose of:

- (1) funding projects in the department's transportation plan; and
- (2) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

- (1) Distributions to the fund from the toll road fund under IC 8-15.5-11.
- (2) Distributions to the fund from the next generation trust fund under IC 8-14-15.
- (3) Appropriations to the fund.
- (4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.
- (5) Revenues arising from:
  - (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or
  - (B) a toll road under IC 8-15-2 or IC 8-23-7-23;
 that the department designates as part of, and deposits in, the fund.

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(6) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 6. (a) If the authority enters into a public-private agreement concerning the Indiana Toll Road under IC 8-15.5, the department shall make the following distributions from the fund for the indicated purposes:

(1) Seventy-five million dollars (\$75,000,000) during each state fiscal year beginning July 1, 2006, and July 1, 2007, to the treasurer of state for deposit in the motor vehicle highway account established by IC 8-14-1. Notwithstanding IC 8-14-1, the auditor of state shall make quarterly distributions of the amounts deposited in the motor vehicle highway account under this subdivision to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subdivision may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(2) Twenty million dollars (\$20,000,000) to the northwest Indiana regional development authority during the state fiscal year beginning July 1, 2006, for deposit in the development authority fund established under IC 36-7.5-4-1. However, no distributions may be made under this subdivision until the development authority's comprehensive strategic development plan has been reviewed by the budget committee and approved by the director of the office of management and budget. The regional development authority shall pay at least ten million dollars (\$10,000,000) of the distribution received under this subdivision to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2).

(3) The following amounts during the state fiscal year beginning July 1, 2006, to each of the following counties:

(A) Thirty million dollars (\$30,000,000) to each county

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described in IC 8-14-16-1(1) through IC 8-14-16-1(5).

(B) Twenty-five million dollars (\$25,000,000) to each county described in IC 8-14-16-1(6).

(C) Fifteen million dollars (\$15,000,000) to each county described in IC 8-14-16-1(7). The county shall pay at least five million dollars (\$5,000,000) of the distribution received under this clause to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2).

(4) One hundred seventy-nine million dollars (\$179,000,000) during the state fiscal year beginning July 1, 2006, to the state highway fund for use by the department:

(A) for preliminary engineering, purchase of rights of way, or construction of highways, roads, and bridges; and

(B) to study the feasibility of the use of creative financing methods, including the use of public-private agreements, tolls, and debt financing to build road and bridge projects.

After review by the budget committee, the budget agency may augment this distribution from balances available in the fund.

(5) An amount sufficient during each state fiscal year beginning after June 30, 2006, as determined by the budget agency, to reimburse the state general fund for the loss of revenue during the preceding state fiscal year attributable to tax credits claimed under IC 6-3-3-11.

(6) An amount sufficient to make any payments required by IC 5-10.3-6-8.7 as a result of a public-private agreement.

(b) There is annually appropriated from the fund an amount sufficient to make any distributions required by subsection (a).

Sec. 7. In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2 or IC 8-15.5 in connection with the execution and performance of a public-private agreement under IC 8-15.5, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

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1        **Sec. 8. The total amount of distributions from the money**  
 2 **received by the authority under a public-private agreement**  
 3 **concerning the Indiana Toll Road entered into under IC 8-15.5 for**  
 4 **projects or purposes that benefit a county traversed by the Indiana**  
 5 **Toll Road may not be less than thirty-four percent (34%) of the**  
 6 **money received by the authority under that public-private**  
 7 **agreement. The budget agency shall determine the amount of**  
 8 **distributions required by this section. In making the determination,**  
 9 **the budget agency shall include the following amounts:**

10        **(1) Amounts distributed to counties traversed by the Indiana**  
 11 **Toll Road under section 6(a)(1) of this chapter.**

12        **(2) Money distributed to the northwest Indiana regional**  
 13 **development authority under this chapter.**

14        **(3) Money distributed under section 6(a)(3) of this chapter.**

15        **(4) Projects carried out by the department in counties**  
 16 **traversed by the Indiana Toll Road and funded with money**  
 17 **distributed under section 6(a)(4) of this chapter.**

18        **(5) Reimbursements paid to the state general fund under**  
 19 **section 6(a)(5) of this chapter.**

20        **(6) Payments to the public employees' retirement fund**  
 21 **required by section 6(a)(6) of this chapter.**

22        **(7) Amounts allocated to the bond retirement account of the**  
 23 **toll road fund under IC 8-15.5-11-4.**

24        **(8) Amounts allocated to the administration account of the toll**  
 25 **road fund under IC 8-15.5-11-4.**

26        **Sec. 9. The northwest Indiana regional development authority**  
 27 **may submit requests to the budget agency for additional**  
 28 **appropriations to be made from the fund for state fiscal years**  
 29 **beginning after June 30, 2007.**

30        **SECTION 6. IC 8-14-15 IS ADDED TO THE INDIANA CODE AS**  
 31 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON**  
 32 **PASSAGE]:**

33        **Chapter 15. Next Generation Trust Fund**

34        **Sec. 1. As used in this chapter, "authority" refers to the Indiana**  
 35 **finance authority.**

36        **Sec. 2. As used in this chapter, "trust" refers to the next**  
 37 **generation trust fund established under this chapter.**

38        **Sec. 3. As used in this chapter, "trustee" refers to the trustee of**  
 39 **the trust designated under section 7 of this chapter.**

40        **Sec. 4. (a) The authority shall establish a next generation trust**  
 41 **fund to hold title to proceeds transferred to the trust under**  
 42 **IC 8-15.5-11 to be used exclusively for the provision of highways,**

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1 roads, and bridges for the benefit of the people of Indiana and the  
2 users of those facilities.

3 (b) The trust shall be established as a charitable trust, separate  
4 from the state, but for the benevolent public purpose provided in  
5 this section.

6 (c) The trust consists of the proceeds transferred to the trust  
7 under IC 8-15.5-11 and any income that accrues from the  
8 investment of these proceeds.

9 Sec. 5. The chairman of the authority shall enter into a trust  
10 agreement on behalf of the authority with the treasurer of state in  
11 conformity with IC 30-4-2-1. Any provision of the trust agreement  
12 entered into under this section that is inconsistent with the  
13 provisions or intent of this chapter are void and of no further force  
14 or effect.

15 Sec. 6. A trust established under this chapter must be an  
16 irrevocable trust and may not be revoked or terminated by the  
17 authority or any other person, nor may it be amended or altered by  
18 the authority or any other person. However, the terms of the trust  
19 must provide that the trust terminates when no funds remain in the  
20 trust.

21 Sec. 7. The treasurer of state shall act as the trustee of the trust.

22 Sec. 8. (a) The trustee shall:

- 23 (1) administer and manage the trust;
- 24 (2) invest the money in the trust; and
- 25 (3) deposit in the trust fund any interest that accrues from the  
26 investment of these funds.

27 (b) The trustee shall invest, in a safe and profitable manner, all  
28 parts of the trust. The trustee shall comply with the prudent  
29 investor rule set forth in IC 30-4-3.5.

30 (c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust  
31 established under this chapter.

32 Sec. 9. IC 30-4 (trust code) applies to a trust established under  
33 this chapter.

34 Sec. 10. (a) The principal and interest of the trust may not be  
35 diminished before the balance in the trust reaches one billion  
36 dollars (\$1,000,000,000).

37 (b) The income that accrues from investment of the trust fund  
38 shall be deposited in the trust.

39 (c) After the balance in the trust reaches one billion dollars  
40 (\$1,000,000,000), the treasurer of state shall annually:

- 41 (1) transfer all interest accruing to the trust; plus
- 42 (2) the greater of:

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- 1 (A) one hundred million dollars (\$100,000,000) of the  
 2 principal of the trust; or  
 3 (B) the remaining balance of the principal of the trust;  
 4 to the major moves construction fund.

5 Sec. 11. The report required under IC 30-4-5-12 is a public  
 6 record. The attorney general may petition for an accounting as  
 7 permitted by IC 30-4-5-12.

8 Sec. 12. (a) This section applies if a person does any of the  
 9 following with respect to a trust created under this chapter:

- 10 (1) Commits a breach of the trust.  
 11 (2) Violates the mandate of the trust or trust agreement.  
 12 (3) Violates a duty imposed by this chapter, the trust  
 13 agreement, or IC 30-4.

14 (b) The attorney general may petition a court to impose one (1)  
 15 or more of the remedies described in IC 30-4-5.5-1.

16 Sec. 13. Any records, files, or documents relating to the trust  
 17 may be examined by the state board of accounts at a time selected  
 18 by the state board of accounts. The trustee shall upon request of  
 19 the state board of accounts:

- 20 (1) produce and submit any records, files, or documents  
 21 related to the trust; and  
 22 (2) assist in every way the state board of accounts in its work  
 23 in making an examination.

24 SECTION 7. IC 8-14-16 IS ADDED TO THE INDIANA CODE AS  
 25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 26 PASSAGE]:

27 **Chapter 16. Local Major Moves Construction Funds**

28 **Sec. 1. This chapter applies only to the following counties:**

- 29 (1) A county having a population of more than thirty-three  
 30 thousand two hundred (33,200) but less than thirty-three  
 31 thousand six hundred (33,600).  
 32 (2) A county having a population of more than thirty-four  
 33 thousand nine hundred (34,900) but less than thirty-four  
 34 thousand nine hundred fifty (34,950).  
 35 (3) A county having a population of more than one hundred  
 36 ten thousand (110,000) but less than one hundred fifteen  
 37 thousand (115,000).  
 38 (4) A county having a population of more than one hundred  
 39 eighty-two thousand seven hundred ninety (182,790) but less  
 40 than two hundred thousand (200,000).  
 41 (5) A county having a population of more than two hundred  
 42 thousand (200,000) but less than three hundred thousand

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(300,000).

(6) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(7) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 2. As used in this chapter, "fund" refers to a local major moves construction fund established under section 3 of this chapter.

Sec. 3. (a) Except as provided in subsection (b), money distributed to a county described in section 1 of this chapter from the major moves construction fund under IC 8-14-14-6(a)(3) shall be distributed by the county auditor among the county and each of the cities and towns in the county that is eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1, in the same proportion among the county, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.

(b) Money designated for payment to an airport authority under IC 8-14-14-6(a)(3) is not subject to distribution under this section.

Sec. 4. (a) Each county, city, or town that receives a distribution under section 3 of this chapter shall establish a local major moves construction fund.

(b) The fund consists of money distributed to the county, city, or town from the major moves construction fund under section 3 of this chapter.

(c) The fiscal officer of the county, city, or town shall administer the fund.

(d) Subject to subsection (f), the fiscal body of the county, city, or town may appropriate money in the fund for a purpose described in section 5 of this chapter. The appropriations of money in the fund must be included as a part of the annual budget for the calendar year in accordance with IC 6-1.1-17.

(e) Money remaining in the fund at the end of a particular calendar year remains in the fund and does not revert to any other fund.

(f) A county fiscal body must consult with the county executive before making an appropriation under this section.

Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

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**(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.**

**(3) Providing funding for economic development projects (as defined in IC 6-3.5-7-13.1) in an eligible county.**

**(4) Matching federal grants for a purpose described in this section.**

**(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.**

SECTION 8. IC 8-15-2-5 IS AMENDED TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]: Sec. 5. The authority may do the following:

(1) Construct, maintain, repair, police, and operate toll road projects (as defined in this chapter), public improvements, and arterial streets and roads under section 1 of this chapter and establish rules for the use of any such toll road project, public improvement, or arterial street or road.

(2) Issue toll road revenue bonds of the state, payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from revenues or from the proceeds of bonds issued under this chapter and earnings thereon, or from all three (3), for the purpose of paying all or any part of the cost of any one (1) or more toll road projects or for the purpose of refunding any other toll road revenue bonds.

(3) Establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds.

(4) Fix and revise from time to time and charge and collect tolls for transit over each toll road project constructed by it.

(5) Acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner as provided by this chapter, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this chapter. The authority may also:

(A) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, whether by purchase, condemnation, or otherwise, and whether such land or interest therein had been public or private, when the same

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shall no longer be needed for such purposes; and

(B) transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under the provisions of this chapter **to a state agency or political subdivision.**

(6) Designate the locations and establish, limit, and control such points of ingress to and egress from each toll road project as may be necessary or desirable in the judgment of the authority to ensure the proper operation and maintenance of such projects, and to prohibit entrance to such project from any point not so designated. The authority shall not grant, for the operation of transient lodging facilities, either ingress to or egress from any project, including the service areas thereof on which are located service stations and restaurants, and including toll plazas and paved portions of the right-of-way. The authority shall cause to be erected, at its cost, at all points of ingress and egress, large and suitable signs facing traffic from each direction on the toll road. Such signs shall designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities with a population of five thousand (5,000) or more within a distance of seventy-five (75) miles on such roads of ingress or egress, and the distance in miles to such designated municipalities.

(7) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, ~~or~~ IC 8-9.5-8, **or IC 8-15.5.** When the cost under any such contract or agreement, other than:

(A) a contract for compensation for personal services;

(B) a contract with the department under IC 8-9.5-8-7; ~~or~~

(C) a lease with the department under IC 8-9.5-8-8; **or**

**(D) a contract, a lease, or another agreement under IC 8-15.5;**

involves an expenditure of more than ten thousand dollars (\$10,000), the authority shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the authority shall determine. Such notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each

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bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety shall be required by the authority of all contractors in an amount equal to at least fifty percent (50%) of the contract price, conditioned upon the faithful performance of the contract.

(8) Employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, bond counsel, other attorneys with the approval of the attorney general, and other employees and agents as may be necessary in its judgment to carry out the provisions of this chapter, and to fix their compensation. However, all such expenses shall be payable solely from the proceeds of toll road revenue bonds issued under the provisions of this chapter or from revenues.

(9) Receive and accept from any federal agency, subject to IC 8-23-3, grants for or in aid of the construction of any toll road project, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made, and repay any grant to the authority or to the department from a federal agency if such repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and

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tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

**(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.**

~~(14)~~ **(15)** Do all acts and things necessary or proper to carry out this chapter.

SECTION 9. IC 8-15-2-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 5.2. The authority may not sell, convey, or mortgage a toll road project.**

SECTION 10. IC 8-15-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority may:

(1) fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion and for placing thereon telephone, telegraph, electric light, or power lines; ~~and~~

(2) fix the terms, conditions, and rates of charge for such use, **including assessments for the failure to pay required tolls**, subject, however, to the state's police power; **and**

**(3) collect tolls, user fees, or other charges through manual or nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems.**

(b) Notwithstanding subsection (a), no toll or charge shall be made by the authority **under this section or under a public-private agreement entered into under IC 8-15.5** for:

(1) the operation of temporary lodging facilities located upon or adjacent to any project, nor may the authority itself operate or gratuitously permit the operation of such temporary lodging facilities by other persons without any toll or charge; or

(2) placing in, on, along, over, or under such project, such telephone, telegraph, electric light or power lines, equipment, or facilities as may be necessary to serve establishments located on the project or as may be necessary to interconnect any public

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utility facilities on one (1) side of the toll road project with those on the other side.

(c) All contracts executed by the authority shall be preserved in the principal office of the authority.

(d) In the case of a toll road project that is not leased to the department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for each toll road project so that the aggregate of the tolls from the project, together with other revenues that are available to the authority without prior restriction or encumbrance, will at least be adequate to pay:

(1) the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements;

(2) the principal of and the interest on bonds issued in connection with the toll road project, as the principal and interest becomes due and payable, including any reserve or sinking fund required for the project; and

(3) the payment of principal of and interest on toll road bonds issued by the authority in connection with any other toll road project, including any reserve or sinking fund required for the project, but only to the extent that the authority provides by resolution and subject to the provisions of any trust agreement relating to the project.

(e) Not less than one (1) year before the date that final payment of all such bonds, interest, and reimbursement is expected by the chairman of the authority to be completed, the chairman shall notify the state budget committee in writing of the expected date of final payment.

(f) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state.

(g) The tolls, rents, and all other revenues derived by the authority from the toll road project, **except those received in accordance with a public-private agreement under IC 8-15.5**, shall be used as follows:

(1) To pay the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements, to the extent that those costs are not paid out of other funds.

(2) To the extent provided for in the resolution authorizing the issuance of bonds under this chapter or in the trust agreement securing the bonds, to pay:

(A) the principal of and interest on any bonds as the principal and interest become due; or

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(B) the redemption price or purchase price of the bonds retired by call or purchase.

(3) Except as prohibited by the resolution authorizing the issuance of bonds under this chapter or the trust agreement securing them, for any purpose relating to any toll road project, including the subject toll road project, as the authority provides by resolution.

(h) Neither the resolution nor any trust agreement by which a pledge is created needs to be filed or recorded except in the records of the authority.

(i) The use and disposition of moneys to the credit of any sinking fund shall be subject to the provisions of any resolution or resolutions authorizing the issuance of any bonds or of any trust agreement. Except as may otherwise be provided in this chapter or in any resolution or any trust agreement, any sinking fund shall be a fund for all bonds without distinction or priority of one over another, subject, however, to such priorities as may arise from prior pledges.

(j) In the case of a toll road project that is leased to the department under IC 8-9.5-8-8, the lease must require that the department fix tolls for the toll road project that comply with IC 8-9.5-8-8(c)(6).

**(k) User fees (as defined in IC 8-15.5-2-10) for a toll road project that is subject to a public-private agreement under IC 8-15.5 shall be set in accordance with IC 8-15.5-7.**

SECTION 11. IC 8-15-2-14.5, AS AMENDED BY P.L.214-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.5. (a) Subject to the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction.

**(b) Subsection (a) does not apply to tolls fixed, authorized, or established in accordance with a public-private agreement under IC 8-15.5.**

SECTION 12. IC 8-15-2-14.7, AS ADDED BY P.L.214-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.

(b) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsection (d), the authority shall distribute to the development authority in calendar year 2006 and calendar year 2007 from revenues accruing to the authority from the toll road at least five million dollars (\$5,000,000) and not more than ten

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million dollars (\$10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2006 and 2007. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(c) Subject to the trust agreement of any outstanding bonds and subject to the requirements of subsections (d) and (e), after 2007, the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.5-4-1.

(d) A distribution may be made by the authority (b) An appropriation made by the general assembly to the development authority under subsection (b) or (c) may be distributed to the development authority only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

(e) A distribution may be made by the authority (c) An appropriation made by the general assembly to the development authority may be distributed to the development authority under subsection (c) only after:

(1) the budget committee has reviewed; the development authority's comprehensive strategic development plan under IC 36-7.5-3-4 and

(2) the director of the office of management and budget has approved;

the comprehensive strategic development plan submitted in accordance with IC 36-7.5-3.4.

(f) (d) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay an amount equal to the greater of zero (0) or the result of:

(1) twenty million dollars (\$20,000,000); minus

(2) any amounts transferred to the development authority under this subsection before the sale or lease;

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1 from the state general fund the amount, if any, appropriated by the  
 2 general assembly to the development authority fund established under  
 3 IC 36-7.5-4-1.

4 ~~(g)~~ (e) Amounts distributed or paid to the development authority  
 5 under this section may be used for any purpose of the development  
 6 authorized under IC 36-7.5.

7 ~~(h) The amounts necessary to make any distributions or payments~~  
 8 ~~required or authorized by this section are appropriated.~~

9 SECTION 13. IC 8-15-2-15 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) All moneys  
 11 received pursuant to the authority of this chapter, whether as proceeds  
 12 from the sale of bonds or as revenues, shall be deemed to be trust  
 13 funds, to be held and applied solely as provided in this chapter. Such  
 14 funds shall be kept in depositories as selected by the authority and may  
 15 be invested until expended, all as provided by law.

16 (b) The resolution authorizing the issuance of bonds of any issue or  
 17 the trust agreement securing such bonds shall provide that any officer  
 18 to whom, or any bank or trust company to which, such moneys shall be  
 19 paid shall:

20 (1) act as trustee of such moneys; and

21 (2) hold and apply the same for the purposes of this chapter,  
 22 subject to such regulations as this chapter and such resolution or  
 23 trust agreement may provide.

24 **(c) This section does not apply to money paid or received with**  
 25 **respect to a toll road project that is the subject of a public-private**  
 26 **agreement under IC 8-15.5.**

27 SECTION 14. IC 8-15-2-17.2, AS AMENDED BY P.L.151-2005,  
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 UPON PASSAGE]: Sec. 17.2. (a) Notwithstanding IC 9, the authority  
 30 may adopt rules:

31 (1) Establishing weight and size limitations for vehicles using a  
 32 toll road project, subject to the following:

33 (A) The operator of any vehicle exceeding any of the  
 34 maximum allowable dimensions or weights as set out by the  
 35 authority in rules and regulations shall apply to the authority  
 36 in writing, for an application for a special hauling permit,  
 37 which application must be in compliance with all the terms  
 38 thereof, and which application must be received at least seven

39 (7) days prior to the time of permitted entry should such permit  
 40 be granted. Such permit, if granted, will be returned to the  
 41 applicant in duplicate, properly completed and numbered, and  
 42 the driver of the vehicle shall have a copy to present to the toll

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attendant on duty at the point of entry.

(B) The authority shall assess a fee for issuing a special hauling permit. In assessing the fee, the authority shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the minimum speed that a motor vehicle may be driven on the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a toll road project.

(4) Determining the manner of operation of motor vehicles entering and leaving traffic lanes on a toll road project.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing motor vehicles on a toll road project.

(6) Determining the establishment and enforcement of traffic control signs and signals for motor vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a toll road project.

(7) Determining the limitation of entry to and exit from a toll road project to designated entrances and exits.

(8) Determining the limitation on use of a toll road project by pedestrians and aircraft and by vehicles of a type specified in such rules and regulations.

(9) Regulating commercial activity on a toll road project, including but not limited to:

(A) the offering or display of goods or services for sale;

(B) the posting, distributing, or displaying of signs, advertisements, or other printed or written material; and

(C) the operation of a mobile or stationary public address system.

**(10) Establishing enforcement procedures and making assessments for the failure to pay required tolls.**

(b) A person who violates a rule adopted under this section commits a Class C infraction. However, a violation of a weight limitation established by the authority under this section is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

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(c) It is a defense to the charge of violating a weight limitation established by the authority under this section that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violated:

(1) a size or weight limitation established by the authority under this section; **or**

(2) **a rule adopted under subsection (a)(10);**

for a period of not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a weight or size limitation established by the authority under this section, the court may recommend suspension of the person's current chauffeur's license only if the violation was committed knowingly.

SECTION 15. IC 8-15-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The authority may, after adopting a resolution and after receiving the governor's approval, at any time determine under IC 8-23-7 that a toll road project constructed or operated by the authority, **other than a toll road project that is subject to a public-private agreement under IC 8-15.5**, should become a part of the system of state highways free of tolls or become a tollway under IC 8-15-3.

(b) Any resolution as to any project described in subsection (a) shall not become effective until all bonds to which the revenues of any project were pledged for payment, together with all interest thereon, is paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity is set aside in trust for the benefit of bondholders.

(c) Until any resolution is adopted by the authority under subsection (a) and becomes effective as provided in subsection (b), **and subject to the terms of any public-private agreement under IC 8-15.5**, any project constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the project and levy and collect tolls as provided in this chapter. ~~Subject to any agreement entered into by the Secretary of Commerce of the United States; acting by and through the federal highway administrator; the Indiana toll road commission; and the state; acting by and through the Indiana department of transportation;~~ Tolls on any project may be continued after the date of the payment of the principal of and interest on bonds issued for the construction of that project.

SECTION 16. IC 8-15-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. **(a) Except as**

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provided in subsection (b), and notwithstanding any other provision of this chapter, funds generated by tolls or any other means from a toll road project that was in existence and in use on or before January 1, 1986, shall be used exclusively for purposes that are authorized and described in this chapter.

(b) If the authority enters into a public-private agreement with respect to a toll road project under IC 8-15.5, funds generated by tolls or any other means from that project shall be used as provided in IC 8-15.5.

SECTION 17. IC 8-15-2-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. If the authority is a party to a public-private agreement under IC 8-15.5, the authority may authorize the operator under that agreement to exercise any or all of the powers specified in sections 1, 6, 18, and 24 of this chapter, subject to the terms of that agreement.

SECTION 18. IC 8-15-2-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A United States flag shall be displayed at the primary administrative building of the Indiana Toll Road.

SECTION 19. IC 8-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsections (e) and (f), the governor must approve the location of any tollway.

(b) The department may construct, reconstruct, maintain, repair, police, and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may develop, construct, reconstruct, improve, or maintain public improvements such as roads and streets, sewer lines, and water lines, if these improvements are adjacent to a tollway.

(d) The department may construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that interchanges with a tollway or intersects with a road or street that interchanges with a tollway.

(e) Notwithstanding any other law, the route of a tollway may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

(f) The department may not establish a tollway under this chapter unless the general assembly adopts a statute authorizing the establishment of the tollway.

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SECTION 20. IC 8-15.5 IS ADDED TO THE INDIANA CODE AS  
A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON  
PASSAGE]:

**ARTICLE 15.5. PUBLIC-PRIVATE AGREEMENTS FOR  
TOLL ROAD PROJECTS**

**Chapter 1. General Provisions**

**Sec. 1.** The powers conferred by this article are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

**Sec. 2. (a)** This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

**(b)** Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

- (1) issue a request for proposals for; or
- (2) enter into;

a public-private agreement that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.

**Sec. 3.** The general assembly finds and determines that:

- (1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads, and therefore alternative funding sources should be developed to supplement public revenue sources;
- (2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1); and
- (3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

**Chapter 2. Definitions**

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1        **Sec. 1. The definitions in this chapter apply throughout this**  
 2 **article.**

3        **Sec. 2. "Authority" refers to the Indiana finance authority.**

4        **Sec. 3. "Department" refers to the Indiana department of**  
 5 **transportation.**

6        **Sec. 4. "Offeror" means a private entity that has submitted a**  
 7 **proposal for a public-private agreement under this article.**

8        **Sec. 5. "Operator" means a private entity that has entered into**  
 9 **a public-private agreement with the authority.**

10       **Sec. 6. "Private entity" means any individual, sole**  
 11 **proprietorship, corporation, limited liability company, joint**  
 12 **venture, general partnership, limited partnership, nonprofit entity,**  
 13 **or other private legal entity. A public agency may provide services**  
 14 **to a private entity without affecting the private status of the private**  
 15 **entity and the ability to enter into a public-private agreement.**

16       **Sec. 7. "Project" or "toll road project" has the meaning set**  
 17 **forth in IC 8-15-2-4(4).**

18       **Sec. 8. "Public-private agreement" means an agreement under**  
 19 **this article between a private entity and the authority under which**  
 20 **the private entity, acting on behalf of the authority as lessee,**  
 21 **licensee, or franchisee, will plan, design, acquire, construct,**  
 22 **reconstruct, improve, extend, expand, lease, operate, repair,**  
 23 **manage, maintain, or finance a toll road project.**

24       **Sec. 9. "Request for proposals" means all materials and**  
 25 **documents prepared by or on behalf of the authority to solicit**  
 26 **proposals from offerors to enter into a public-private agreement.**

27       **Sec. 10. "User fees" means the rates, tolls, or fees imposed for**  
 28 **the use of, or incidental to, all or any part of a toll road project**  
 29 **under a public-private agreement.**

30       **Chapter 3. Authority to Enter Into Public-Private Agreements**

31       **Sec. 1. Subject to the other provisions of this article, the**  
 32 **authority and a private entity may enter into a public-private**  
 33 **agreement with respect to a toll road project. Subject to the**  
 34 **requirements of this article, a public-private agreement may**  
 35 **provide that the private entity is partially or entirely responsible**  
 36 **for any combination of the following activities with respect to the**  
 37 **project:**

- 38        **(1) Planning.**
- 39        **(2) Design.**
- 40        **(3) Acquisition.**
- 41        **(4) Construction.**
- 42        **(5) Reconstruction.**

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- (6) Improvement.
- (7) Extension or expansion.
- (8) Operation.
- (9) Repair.
- (10) Management.
- (11) Maintenance.
- (12) Financing.

#### **Chapter 4. Selection of Operator by Request for Proposals**

**Sec. 1.** Before entering into a public-private agreement under this article, the authority must issue a request for proposals as set forth in this chapter. A request for proposals for a toll road project may be issued by the authority in one (1) or more phases and may include a request for qualifications.

**Sec. 2.** A request for proposals issued by the authority must include the following:

- (1) The factors or criteria that will be used in evaluating the proposals.
- (2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.
- (3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.
- (4) A statement concerning any other information that the authority may consider in evaluating the proposals.
- (5) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may not disclose the contents of proposals during:
  - (A) discussions; or
  - (B) negotiations;
 with eligible offerors to other eligible offerors.

**Sec. 3.** Notice of a request for proposals shall be given by publication in accordance with IC 5-3-1.

**Sec. 4.** As provided in a request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

**Sec. 5.** Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

**Sec. 6. (a)** The authority may not disclose the contents of

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proposals during discussions or negotiations with eligible offerors.

(b) The authority may, in its discretion in accordance with IC 5-14-3, treat as confidential all records relating to discussions or negotiations between the authority and eligible offerors if those records are created while discussions or negotiations are in progress.

(c) Notwithstanding subsections (a) and (b), and with the exception of parts that are confidential under IC 5-14-3, the terms of the selected offer negotiated under this article shall be available for inspection and copying under IC 5-14-3 after negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the authority shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

Sec. 7. (a) The authority shall negotiate with one (1) or more responsible offerors who submit proposals that are determined to be reasonably capable of being selected for a public-private agreement and may seek to obtain a final offer from one (1) or more responsible offerors.

(b) In determining whether one (1) or more responsible offerors are reasonably capable of being selected for a public-private agreement, the authority must consider all of the following:

(1) The responsible offeror's expertise, qualifications, competence, skills, and know-how to perform its obligations under the proposed public-private agreement in accordance with the public-private agreement.

(2) The financial strength of the responsible offeror, including its capitalization.

(3) The experience of the responsible offeror in operating toll roads and highways and other similar projects and the quality of the responsible offeror's past or present performance on other similar or equivalent projects.

(4) The integrity, background, and reputation of the responsible offeror, including the absence of criminal, civil, or regulatory claims or actions against the responsible offeror.

(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider the offeror or operator as well as any

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private entity that controls the actions of the offeror or operator.

**Sec. 8.** After the final offers from responsible offerors have been negotiated under section 7 of this chapter, the authority shall:

- (1) make a preliminary selection of an offeror as the operator for the related toll road project, whose final offer shall be referred to in this article as the "selected offer"; or
- (2) terminate the request for proposal process.

**Sec. 9.** If the authority makes a preliminary selection of an operator under section 8 of this chapter, the authority shall schedule a public hearing on the preliminary selection and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

- (1) The date, time, and place of the hearing.
- (2) The subject matter of the hearing.
- (3) A description of the related toll road project and of the public-private agreement to be awarded.
- (4) The identity of the offeror that has been preliminarily selected as the operator for the project.
- (5) The address and telephone number of the authority.
- (6) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the selected offer and an explanation of the basis upon which the preliminary selection was made are available for public inspection and copying at the principal office of the authority during regular business hours.

**Sec. 10.** (a) Subject to section 6 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before the hearing scheduled under section 9 of this chapter.

(b) At the hearing, the authority shall allow the public to be heard on the preliminary selection.

**Sec. 11.** (a) After the procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the related toll road project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of

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the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the related toll road project. The authority shall publish notice of the designation of the operator for the related toll road project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the related toll road project, the authority may execute the public-private agreement with that operator.

Sec. 12. Any action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of an operator under the public-private agreement as provided in section 11 of this chapter.

Sec. 13. The authority shall disclose the contents of all proposals, except the portions of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

- (1) the request for proposal process is terminated under section 8 of this chapter; or
- (2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

#### Chapter 5. Terms and Conditions of Public-Private Agreements

Sec. 1. (a) Before developing or operating a toll road project, a private entity that has been selected as the operator of a toll road project under this article shall enter into a public-private agreement with the authority setting forth the rights and duties of the operator under this article.

(b) A public-private agreement entered into under this article must be approved by the governor before its execution.

Sec. 2. A public-private agreement entered into under this article must provide for the following:

- (1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.
- (2) Provisions for a:
  - (A) lease, franchise, or license of the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located; or
  - (B) management agreement or other contract to operate the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located;

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for a predetermined period. The public-private agreement must provide for ownership of all improvements and real property by the authority in the name of the state.

(3) Monitoring of the operator's maintenance practices by the authority and the taking of actions by the authority that it considers appropriate to ensure that the toll road project is properly maintained.

(4) The basis upon which user fees that may be collected by the operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Grounds for termination of the public-private agreement by the authority or the operator.

(7) The date of termination of the operator's authority and duties under this article.

(8) Procedures for amendment of the agreement.

Sec. 3. In addition to the requirements of section 2 of this chapter, a public-private agreement may include additional provisions concerning:

(1) Review and approval by the authority of the operator's plans for the development and operation of the toll road project.

(2) Inspection by the authority of construction of or improvements to the toll road project.

(3) Maintenance by the operator of a policy or policies of public liability insurance (copies of which shall be filed with the authority, accompanied by proofs of coverage) or self-insurance, each in a form and amount satisfactory to the authority to insure coverage of tort liability to the public and employees and to enable the continued operation of the toll road project.

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

(5) Filing by the operator, on a periodic basis, of appropriate traffic reports in a form acceptable to the authority.

(6) Payments to the operator. These payments may consist of one (1) or more of the following:

(A) The retention by the operator of the revenues collected by the operator in the operation and management of the toll road project.

(B) Payments made to the operator by the authority.

(C) Other sources of payment or revenue to the operator,

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1 if any.

2 (7) Financing obligations of the operator and the authority,  
3 including entering into agreements for the benefit of the  
4 financing parties.

5 (8) Apportionment of expenses between the operator and the  
6 authority.

7 (9) The rights and duties of the operator, the authority, and  
8 other state and local governmental entities with respect to use  
9 of the toll road project, including the state police department  
10 and other law enforcement and public safety agencies.

11 (10) Arbitration or other dispute resolution mechanisms or  
12 remedies for the settlement of claims and other disputes  
13 arising under the agreement.

14 (11) Payment of money to either party upon default or delay,  
15 or upon termination of the public-private agreement, with the  
16 payments to be used:

17 (A) in the form of liquidated damages to compensate the  
18 operator for demonstrated unamortized costs, lost profits,  
19 or other amounts as provided in the agreement;

20 (B) to retire or refinance indebtedness related to the toll  
21 road project or the public-private agreement; or

22 (C) for any other purpose mutually agreeable to the  
23 operator and the authority.

24 (12) Indemnification of the operator by the authority under  
25 conditions specified in the agreement.

26 (13) Assignment, subcontracting, or other delegation of  
27 responsibilities of the operator or the authority under the  
28 agreement to third parties, including other private entities,  
29 the department, and other state agencies.

30 (14) Sale or lease to the operator of personal property related  
31 to the toll road project.

32 (15) Other lawful terms and conditions to which the operator  
33 and the authority mutually agree.

34 Sec. 4. (a) The operator may finance its obligations with respect  
35 to the toll road project and the public-private agreement in the  
36 amounts and upon the terms and conditions determined by the  
37 operator.

38 (b) The operator may:

39 (1) issue debt, equity, or other securities or obligations;

40 (2) enter into sale and leaseback transactions; and

41 (3) secure any financing with a pledge of, security interest in,  
42 or lien on any user fees charged and collected for the use of

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the toll road project and any property interest of the operator toll road project.

However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.

(c) The operator may deposit the user fees charged and collected for the use of the toll road project in a separate account held by a trustee or escrow agent for the benefit of the secured parties of the operator.

Sec. 5. Notwithstanding any contrary provision of this article, the authority may enter into a public-private agreement with multiple private entities if the authority determines in writing that it is in the public interest to do so.

Sec. 6. The department or any other state agency may perform any duties and exercise any powers of the authority under this article or the public-private agreement that have been assigned, subcontracted, or delegated to it by the authority.

#### Chapter 6. Construction and Operating Standards for Toll Road Projects

Sec. 1. The plans and specifications for each toll road project constructed under this article must comply with:

- (1) the authority's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and
- (2) any other applicable state or federal standards.

Sec. 2. Unless otherwise provided by federal law, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

Sec. 3. The operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is subject to:

- (1) the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes; and

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(2) the provisions that may be established by the authority in a public-private agreement with respect to awarding contracts to Indiana businesses (as defined in IC 5-22-15-20.5).

**Sec. 4.** Each toll road project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

**Sec. 5.** An operator may enter into agreements for maintenance or other services under this article with the authority, the department, or other state agencies. The authority may:

(1) with the assistance of all applicable state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for toll road projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the authority is reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of toll road projects under this article.

**Sec. 6.** The authority shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for toll road projects under this article.

#### **Chapter 7. User Fees**

**Sec. 1. (a)** Notwithstanding IC 8-9.5-8 and IC 8-15-2-14(j), the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project in accordance with the public-private agreement.

(b) In fixing the amounts referred to in subsection (a), the authority may:

(1) establish maximum amounts for the user fees; and

(2) provide for increases or decreases of the user fees or the maximum amounts established based upon the indices, methodologies, or other factors that the authority considers appropriate.

**Sec. 2.** A schedule of the current user fees shall be made available by the operator to any member of the public on request.

**Sec. 3.** User fees established by the authority under this article are not subject to supervision or regulation by any other

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commission, board, bureau, or agency of the state, or by any political subdivision.

**Sec. 4. (a) User fees established by the authority under section 1 of this chapter for the use of a toll road project must be nondiscriminatory and may:**

- (1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, or traffic congestion or such other means or classification as the authority determines to be appropriate;**
- (2) vary by time of day or year; or**
- (3) be based on one (1) or more factors considered relevant by the authority, which may include any combination of:**

**(A) the costs of:**

- (i) operation;**
- (ii) maintenance; and**
- (iii) repair and rehabilitation;**

**(B) debt service payments on bonds or other obligations;**

**(C) adequacy of working capital;**

**(D) depreciation;**

**(E) payment of user fees, any state, federal, or local taxes, or payments in lieu of taxes; and**

**(F) the sufficiency of income to:**

- (i) maintain the toll road project in a sound physical and financial condition to render adequate and efficient service; and**
- (ii) induce an operator to enter into a public-private agreement.**

**Sec. 5. A public-private agreement may:**

- (1) grant an operator a license or franchise to charge and collect tolls for the use of the toll road project;**
- (2) authorize the operator to adjust the user fees charged and collected for the use of the toll road project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the authority under section 1 of this chapter;**
- (3) provide that any adjustment by the operator permitted under subdivision (2) may be based on such indices, methodologies, or other factors as described in the public-private agreement or as approved by the authority;**
- (4) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic**

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toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and

(5) authorize the collection of user fees charges by a third party.

Sec. 6. (a) After expiration of a public-private agreement, the authority may:

(1) continue to charge user fees for the use of the toll road project; or

(2) delegate to a third party the authority to continue to collect the user fees.

(b) Revenues collected under this section must first be used for operations and maintenance of the toll road project. Any revenues determined by the authority to be excess must be paid to the authority for deposit in the toll road fund established by IC 8-15.5-11.

Sec. 7. Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under IC 4-22-2-37.1(a)(30).

#### Chapter 8. Taxation of Operators

Sec. 1. A toll road project and tangible personal property used exclusively in connection with a toll road project that are:

(1) owned by the authority and leased, franchised, licensed or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator in connection with the toll road project;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose and the property, and an operator's leasehold estate, franchise, license, and other interests in the property are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

Sec. 2. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities.

Sec. 3. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land

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1 included in the toll road project is not exempt from the application  
 2 of the gross retail or use tax under IC 6-2.5 with respect to such a  
 3 purchase.

4 **Chapter 9. Records of Operators**

5 **Sec. 1.** Records that are provided by an operator to the  
 6 authority that relate to compliance by an operator with the terms  
 7 of a public-private agreement are subject to inspection and copying  
 8 in accordance with IC 5-14-3.

9 **Chapter 10. Additional Powers of the Authority Concerning**  
 10 **Toll Road Projects**

11 **Sec. 1.** The authority may exercise any powers provided under  
 12 this article in participation or cooperation with the department or  
 13 any other governmental entity and enter into any contracts to  
 14 facilitate that participation or cooperation without compliance  
 15 with any other statute.

16 **Sec. 2. (a)** The authority may make and enter into all contracts  
 17 and agreements necessary or incidental to the performance of the  
 18 authority's duties and the execution of the authority's powers  
 19 under this article. These contracts or agreements are not subject  
 20 to any approvals other than the approval of the authority and may  
 21 be for any term of years and contain any terms that are considered  
 22 reasonable by the authority.

23 **(b) The:**

24 **(1)** department; and

25 **(2)** any other state agency;

26 may make and enter into all contracts and agreements necessary  
 27 or incidental to the performance of the duties and the execution of  
 28 the powers granted to the department or the state agency in  
 29 accordance with this article or the public-private agreement. These  
 30 contracts or agreements are not subject to any approvals other  
 31 than the approval of the department or state agency and may be  
 32 for any term of years and contain any terms that are considered  
 33 reasonable by the department or the state agency.

34 **Sec. 3. (a)** The authority may pay any amounts owed by the  
 35 authority under a public-private agreement entered into under this  
 36 article from any funds available to the authority under this article  
 37 or any other statute.

38 **(b)** Subject to review by the budget committee established by  
 39 IC 4-12-1-3 and approval by the budget director appointed under  
 40 IC 4-12-1-3, a public-private agreement entered into under this  
 41 article may:

42 **(1)** establish a procedure for the authority or a person acting

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on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or  
 (2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2 to provide funds for any amounts identified under this section without complying with IC 8-9.5-8-10.

Sec. 4. For purposes of this article, the authority may authorize an operator under a public-private agreement to perform any of its duties under IC 8-15-2-1, IC 8-15-2-6, IC 8-15-2-18, and IC 8-15-2-24.

Sec. 5. The authority may exercise any of its powers under IC 8-15-2 or any other provision of Indiana Code as necessary or desirable for the performance of the authority's duties and the execution of the authority's powers under this article.

Sec. 6. The authority may not take any action under this chapter that would impair the public-private agreement entered into under this article.

Sec. 7. (a) The authority shall enter into an agreement between and among the operator, the authority, and the state police department concerning the provision of law enforcement assistance with respect to a toll road project that is the subject of a public-private agreement under this article.

(b) The authority shall enter into arrangements with the state police department related to costs incurred in providing law enforcement assistance under this article.

(c) All law enforcement officers of the state and any political subdivision have the same powers and jurisdiction within the limits of a toll road project as they have in their respective areas of jurisdiction, including the roads and highways of the state. These law enforcement officers shall have access to a toll road project that is the subject of a public-private agreement to exercise their powers and jurisdiction.

#### Chapter 11. Toll Road Fund

Sec. 1. As used in this chapter, "account" refers to an account established within the fund.

Sec. 2. As used in this chapter, "fund" refers to the toll road fund established by section 3 of this chapter.

Sec. 3. (a) The toll road fund is established to provide funds to:  
 (1) pay or defease certain bonds in the manner provided by

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1 this chapter;

2 (2) pay amounts owed by the authority in connection with the  
3 execution and performance of a public-private agreement  
4 under this article, including operating expenses of the  
5 authority; and

6 (3) make distributions to the next generation trust fund and  
7 the major moves construction fund.

8 (b) The authority shall hold, administer, and manage the fund.

9 (c) Expenses of administering the fund shall be paid from money  
10 in the fund.

11 (d) The fund consists of the following:

12 (1) Money received from an operator under a public-private  
13 agreement.

14 (2) Appropriations, if any, made by the general assembly.

15 (3) Grants and gifts intended for deposit in the fund.

16 (4) Interest, premiums, gains, or other earnings on the fund.

17 (5) Amounts transferred to the fund under subsection (i).

18 (e) The authority shall establish the following separate accounts  
19 within the fund:

20 (1) The bond retirement account.

21 (2) The administration account.

22 (3) The eligible project account.

23 (f) Money in the fund shall be deposited, paid, and secured in  
24 the manner provided by IC 4-4-11-32. Notwithstanding IC 5-13,  
25 the authority shall invest the money in the fund that is not needed  
26 to meet the obligations of the fund in the manner provided by an  
27 investment policy established by resolution of the authority.

28 (g) The fund is not part of the state treasury and is considered  
29 a trust fund for purposes of IC 4-9.1-1-7. Money may not be  
30 transferred, assigned, or otherwise removed from the fund by the  
31 state board of finance, the budget agency, or any other state  
32 agency.

33 (h) Money in the fund at the end of a state fiscal year does not  
34 revert to the state general fund.

35 (i) As soon as practicable after a public-private agreement  
36 concerning the Indiana Toll Road has been executed and the  
37 closing for each financing transaction required to provide funding  
38 to carry out the agreement has been conducted, the authority shall  
39 determine the total balance remaining in all toll road funds and  
40 accounts established under IC 8-15-2. Subject to any applicable  
41 trust indentures securing toll road bonds, the authority may retain  
42 from those funds and accounts the amounts necessary to pay

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1 outstanding obligations with respect to the operation of the Indiana  
 2 Toll Road incurred before the effective date of the public-private  
 3 agreement, and shall transfer all remaining balances in the toll  
 4 road funds and accounts to the fund.

5 Sec. 4. (a) Before any allocations are made from the fund under  
 6 this chapter, the authority shall determine:

7 (1) the extent to which outstanding bonds issued by the  
 8 authority under IC 8-14.5-6 or IC 8-15-2 should be repaid,  
 9 defeased, or otherwise retired;

10 (2) the total amount necessary to repay, defease, or otherwise  
 11 retire the bonds selected by the authority for repayment,  
 12 defeasance, or retirement; and

13 (3) the total amount necessary to pay the amounts owed by the  
 14 authority related to the execution and performance of a  
 15 public-private agreement under this article, including  
 16 establishing reserves.

17 The authority shall make a separate determination of the amount  
 18 described in subdivision (3) for each public-private agreement. The  
 19 amount described in subdivision (3) is payable solely from money  
 20 received by the authority under the public-private agreement for  
 21 which the amounts owed were incurred, and are not payable from  
 22 lease payments received under IC 8-9.5 or IC 8-14.5.

23 (b) Before making any allocations from the fund under  
 24 subsection (c) or (d), the authority shall allocate the amount  
 25 determined under subsection (a)(2) to the bond retirement account.  
 26 Money in this account may be used only for the purpose described  
 27 in section 3(a)(1) of this chapter.

28 (c) After making the allocation required by subsection (b) and  
 29 before making the allocations required by subsection (d), the  
 30 authority shall allocate the amount determined under subsection  
 31 (a)(3) to the administration account. Money in this account may be  
 32 used only for the purpose described in section 3(a)(2) of this  
 33 chapter.

34 (d) After making the allocations required by subsections (b) and  
 35 (c), the remaining money received during each state fiscal year  
 36 under a public-private agreement under this article shall be  
 37 allocated to the eligible project account. Money in this account may  
 38 be used only for the purposes described in section 3(a)(3) of this  
 39 chapter. Within thirty (30) days after a public-private agreement  
 40 concerning the Indiana Toll Road has been executed and the  
 41 closing for each financing transaction required to provide funding  
 42 to carry out the agreement has been conducted, the authority shall

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transfer:

- (1) four hundred million dollars (\$400,000,000) of the money in the eligible project account to the next generation trust fund; and
- (2) the remainder of the money in the eligible project account to the major moves construction fund.

In addition, any amounts transferred to the fund under section 3(i) of this chapter after the date described in this subsection shall be transferred to the major moves construction fund.

Sec. 5. (a) The money allocated to the eligible project account must be used to make distributions to the next generation trust fund and the major moves construction fund, as provided by section 4 of this chapter.

#### Chapter 12. Prohibited Local Action

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would have the effect of impairing a public-private agreement under this article.

#### Chapter 13. Prohibited Political Contributions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

- (1) A candidate for a state office.
- (2) A candidate for a legislative office.
- (3) A candidate for a local office.

Sec. 3. As used in this chapter, "committee" refers to any of the following:

- (1) A candidate's committee.
- (2) A regular party committee.
- (3) A committee organized by a legislative caucus of the house of representatives of the general assembly.
- (4) A committee organized by a legislative caucus of the senate of the general assembly.

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

- (1) An individual listed as an officer of a corporation in the corporation's most recent annual report.
- (2) An individual who is a successor to an individual described in subdivision (1).

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

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(1) The person holds at least a one percent (1%) interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds at least a one percent (1%) interest in an operator.

(4) The person is a political action committee of an operator.

**Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.**

**Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:**

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

**Sec. 8. A person who knowingly or intentionally violates this chapter commits a Class D felony.**

**SECTION 21. IC 8-23-7-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Subject to subsections (b) and (c), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.**

**(b) The department may not issue an order concerning a state highway under subsection (a) unless the general assembly adopts a statute:**

(1) finding that the state highway should be converted to a tollway; and

(2) authorizing the conversion of the state highway to a tollway.

**(c) Notwithstanding any other law, the route of a tollway established under this section may not terminate along any part of a highway that:**

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least

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**eighty thousand (80,000).**

SECTION 22. IC 8-23-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Subject to subsections (c) and (d)**, the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; or

(B) **enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.**

(b) To complete a transfer under this section, the department must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in the certificate is under the jurisdiction and control of the authority.

**(c) The department may not issue an order concerning a state highway under subsection (a) unless the general assembly adopts a statute:**

(1) **finding that the state highway should be converted to a toll road; and**

(2) **authorizing the conversion of the state highway to a toll road.**

**(d) Notwithstanding any other law, the route of a toll road established under this section may not terminate along any part of a highway that:**

(1) **has at least four (4) lanes; and**

(2) **is located in a township having a population of at least eighty thousand (80,000).**

SECTION 23. IC 8-23-9-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) To provide funds for carrying out the provisions of this chapter, there is created a

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state highway fund from the following sources:

(1) All money in the general fund to the credit of the state highway account.

(2) All money that is received from the Department of Transportation or other federal agency and known as federal aid.

(3) All money paid into the state treasury to reimburse the state for money paid out of the state highway fund.

(4) All money provided by Indiana law for the construction, maintenance, reconstruction, repair, and control of public highways, as provided under this chapter.

(5) All money that on May 22, 1933, was to be paid into the state highway fund under contemplation of any statute in force as of May 22, 1933.

(6) All money that may at any time be appropriated from the state treasury.

(7) Any part of the state highway fund unexpended at the expiration of any fiscal year, which shall remain in the fund and be available for the succeeding years.

(8) Any money credited to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).

(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.

(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.

**(11) Any money distributed to the state highway fund under IC 8-14-14 or IC 8-15.5.**

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund.

SECTION 24. IC 9-13-2-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. "Automated traffic law enforcement system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**

SECTION 25. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 3.5. Automated Traffic Law Enforcement System**

**Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.**

**Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device that:**

**(1) has one (1) or more motor vehicle sensors; and**

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(2) is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's front or rear license plate, as the vehicle proceeds through a tollgate, toll zone, or other area on a toll road that is marked as required by the department, the authority, or an operator as a place where a person using the toll road must pay a toll or is otherwise subject to a fee for using the toll road.

Sec. 3. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 4. As used in this chapter, "operator" has the meaning set forth in IC 8-15.5-2-5.

Sec. 5. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under:

- (1) IC 9-18;
- (2) the laws of another state;
- (3) the laws of a foreign country; or
- (4) the International Registration Plan.

Sec. 6. As used in this chapter, "toll road" has the meaning set forth in IC 8-15-2-4(4).

Sec. 7. The owner of a motor vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility on a toll road shall pay the proper toll.

Sec. 8. The department or the authority may adopt and enforce rules concerning:

- (1) the placement and use of automated traffic law enforcement systems to enforce collection of user fees;
- (2) required notification to owners of toll violations;
- (3) the process for collection and enforcement of unpaid amounts;
- (4) the amount of fines, charges, and assessments for toll violations; and
- (5) other matters relating to automated traffic law enforcement systems that the department or the authority considers appropriate.

Sec. 9. Before enforcing a rule adopted under section 8 of this chapter, the department, the authority, or an operator must install advance warning signs along the tollways, toll roads, or qualifying projects proceeding to the location at which an automated traffic law enforcement system is located.

Sec. 10. (a) In the prosecution of a toll violation, proof that the motor vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a

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1 video recording, a photograph, an electronic recording, or other  
 2 appropriate evidence, including evidence obtained by an  
 3 automated traffic law enforcement system.

4 (b) In the prosecution of a toll violation:

5 (1) it is presumed that any notice of nonpayment was received  
 6 on the fifth day after the date of mailing; and

7 (2) a computer record of the department, the authority, or the  
 8 operator of the registered owner of the vehicle is prima facie  
 9 evidence of its contents and that the toll violator was the  
 10 registered owner of the vehicle at the time of the underlying  
 11 event of nonpayment.

12 Sec. 11. (a) For purposes of this section, "transponder" means  
 13 a device, placed on or within a motor vehicle, that is capable of  
 14 transmitting information used to assess or collect tolls. A  
 15 transponder is "insufficiently funded" when there are no  
 16 remaining funds in the account in connection with which the  
 17 transponder was issued.

18 (b) Any police officer of this state may seize a stolen or  
 19 insufficiently funded transponder and return it to the department,  
 20 the authority, or an operator, except that an insufficiently funded  
 21 transponder may not be seized from the holder of an account  
 22 sooner than the thirtieth day after the date the department, the  
 23 authority, or an operator has sent a notice of delinquency to the  
 24 holder of the account.

25 (c) The department or the authority may enter into an  
 26 agreement with one (1) or more persons to market and sell  
 27 transponders for use on toll roads.

28 (d) The department, the authority, or an operator may charge  
 29 reasonable fees for initiating, administering, and maintaining  
 30 electronic toll collection customer accounts.

31 (e) Electronic toll collection customer account information,  
 32 including contact and payment information and trip data, is  
 33 confidential and not subject to disclosure under IC 5-14-3. A  
 34 contract for the acquisition, construction, maintenance, or  
 35 operation of a toll road must ensure the confidentiality of all  
 36 electronic toll collection customer account information.

37 SECTION 26. IC 34-13-3-3, AS AMENDED BY P.L.208-2005,  
 38 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 UPON PASSAGE]: Sec. 3. A governmental entity or an employee  
 40 acting within the scope of the employee's employment is not liable if  
 41 a loss results from the following:

42 (1) The natural condition of unimproved property.

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(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or

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1 impliedly authorized by law.

2 (14) Misrepresentation if unintentional.

3 (15) Theft by another person of money in the employee's official  
4 custody, unless the loss was sustained because of the employee's  
5 own negligent or wrongful act or omission.

6 (16) Injury to the property of a person under the jurisdiction and  
7 control of the department of correction if the person has not  
8 exhausted the administrative remedies and procedures provided  
9 by section 7 of this chapter.

10 (17) Injury to the person or property of a person under supervision  
11 of a governmental entity and who is:

12 (A) on probation; or

13 (B) assigned to an alcohol and drug services program under  
14 IC 12-23, a minimum security release program under  
15 IC 11-10-8, a pretrial conditional release program under  
16 IC 35-33-8, or a community corrections program under  
17 IC 11-12.

18 (18) Design of a highway (as defined in IC 9-13-2-73) **or toll**  
19 **road project (as defined in IC 8-15-2-4(4))** if the claimed loss  
20 occurs at least twenty (20) years after the public highway **or toll**  
21 **road project** was designed or substantially redesigned; except  
22 that this subdivision shall not be construed to relieve a  
23 responsible governmental entity from the continuing duty to  
24 provide and maintain public highways in a reasonably safe  
25 condition.

26 (19) Development, adoption, implementation, operation,  
27 maintenance, or use of an enhanced emergency communication  
28 system.

29 (20) Injury to a student or a student's property by an employee of  
30 a school corporation if the employee is acting reasonably under a  
31 discipline policy adopted under IC 20-33-8-7(b).

32 (21) An error resulting from or caused by a failure to recognize  
33 the year 1999, 2000, or a subsequent year, including an incorrect  
34 date or incorrect mechanical or electronic interpretation of a date,  
35 that is produced, calculated, or generated by:

36 (A) a computer;

37 (B) an information system; or

38 (C) equipment using microchips;

39 that is owned or operated by a governmental entity. However, this  
40 subdivision does not apply to acts or omissions amounting to  
41 gross negligence, willful or wanton misconduct, or intentional  
42 misconduct. For purposes of this subdivision, evidence of gross

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negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

**SECTION 27. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "authority" and "user fees" have the meanings set forth in IC 8-15.5-2, as added by this act.**

**(b) The authority shall adopt a rule under IC 4-22-2-37.1, as amended by this act, fixing user fees, including a schedule of the user fees provided for under a public-private agreement entered into under IC 8-15.5-4, as added by this act, on or before January 1, 2007.**

**(c) This SECTION expires July 1, 2007.**

**SECTION 28. [EFFECTIVE JULY 1, 2006] IC 6-3-3-11, as added by this act, applies to taxable years beginning after December 31, 2005, and tolls paid after June 30, 2006.**

**SECTION 29. [EFFECTIVE UPON PASSAGE] The provisions of this act are severable in the manner provided by IC 1-1-1-8(b).**

**SECTION 30. An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1008, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, line 23, after "Sec. 6." insert "(a)".

Page 6, line 23, delete "at the".

Page 6, line 24, delete "request of the department".

Page 6, line 25, after "incurred" insert "**or amounts owed**".

Page 6, line 25, after "authority" insert "**, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.**".

Page 6, delete lines 26 through 27.

Page 6, line 29, delete "The" and insert "**To the treasurer of state for deposit in the state highway fund, for the**".

Page 6, between lines 33 and 34, begin a new paragraph and insert:

**"(b) In addition to the distributions permitted by subsection (a), the authority shall distribute from the fund fifty million dollars (\$50,000,000) per year during 2006, 2007, and 2008 to the treasurer of state for deposit in the motor vehicle highway account established by IC 8-14-1. Notwithstanding IC 8-14-1, the auditor of state shall distribute the amounts deposited in the motor vehicle highway account under this subsection to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subsection may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1."**

Page 30, line 23, delete "selected offeror commences operations under the" and insert "**public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.**".

Page 30, delete line 24.

Page 40, line 34, delete "(c) or (d)," and insert "**(c), (d), or (e),**".

Page 40, line 39, delete "allocation" and insert "**allocations**".

Page 40, line 39, delete "subsection (d)," and insert "**subsections (d) and (e),**".

Page 41, line 3, delete "all" and insert "**thirty-four percent (34%)**".

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of the".

Page 41, line 3, after "received" insert **"during each state fiscal year"**.

Page 41, line 6, delete "5(a)(2) and".

Page 41, delete lines 7 through 9, begin a new paragraph and insert:

**"(e) After making the allocations required by subsections (b), (c), and (d), the authority shall transfer all remaining money received during each state fiscal year under a public-private agreement under this article to the major moves construction fund established by IC 8-14-14."**

Page 41, line 10, delete "Thirty-four percent (34%) of the" and insert **"The"**.

Page 41, line 11, after "distributions to" insert **":"**.

Page 41, delete lines 12 through 14, begin a new line block indented and insert:

- "(1) the department;**
- (2) the northwest Indiana regional development authority;**
- and**
- (3) eligible political subdivisions;**

**for eligible projects located in eligible political subdivisions."**

Page 42, between lines 35 and 36, begin a new paragraph and insert:

**"Chapter 13. Prohibited Political Contributions**

**Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.**

**Sec. 2. As used in this chapter, "candidate" refers to any of the following:**

- (1) A candidate for a state office.**
- (2) A candidate for a legislative office.**
- (3) A candidate for a local office.**

**Sec. 3. As used in this chapter, "committee" refers to any of the following:**

- (1) A candidate's committee.**
- (2) A regular party committee.**
- (3) A committee organized by a legislative caucus of the house of representatives of the general assembly.**
- (4) A committee organized by a legislative caucus of the senate of the general assembly.**

**Sec. 4. As used in this chapter, "officer" refers only to either of the following:**

- (1) An individual listed as an officer of a corporation in the corporation's most recent annual report.**
- (2) An individual who is a successor to an individual described**

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in subdivision (1).

**Sec. 5.** For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

- (1) The person holds any interest in an operator.
- (2) The person is an officer of an operator.
- (3) The person is an officer of a person that holds any interest in an operator.
- (4) The person is a political action committee of an operator.

**Sec. 6.** An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

**Sec. 7.** An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

- (1) The term during which the operator is a party to a public-private agreement entered into under this article.
- (2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

**Sec. 8.** A person who knowingly or intentionally violates this chapter commits a Class D felony."

Page 45, line 26, delete "Intermodal facilities, roads, airports, transit facilities and" and insert "**Roads and bridges.**".

Page 45, delete lines 27 through 28.

Page 48, line 24, delete "or" and insert "**and**".

Page 48, line 25, delete "or both,".

Page 48, line 41, after "area" delete "or" and insert "**and**".

Page 48, line 41, delete "or both,".

Page 67, between lines 17 and 18, begin a new paragraph and insert: "**Chapter 16. Prohibited Political Contributions**

**Sec. 1.** The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

**Sec. 2.** As used in this chapter, "candidate" refers to any of the following:

- (1) A candidate for a state office.
- (2) A candidate for a legislative office.
- (3) A candidate for a local office.

**Sec. 3.** As used in this chapter, "committee" refers to any of the following:

- (1) A candidate's committee.
- (2) A regular party committee.

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(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

**Sec. 4.** As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

**Sec. 5.** For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds any interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds any interest in an operator.

(4) The person is a political action committee of an operator.

**Sec. 6.** An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

**Sec. 7.** An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

**Sec. 8.** A person who knowingly or intentionally violates this chapter commits a Class D felony."

Page 68, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 36. IC 8-23-9-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) To provide funds for carrying out the provisions of this chapter, there is created a state highway fund from the following sources:

(1) All money in the general fund to the credit of the state highway account.

(2) All money that is received from the Department of Transportation or other federal agency and known as federal aid.

(3) All money paid into the state treasury to reimburse the state for money paid out of the state highway fund.

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(4) All money provided by Indiana law for the construction, maintenance, reconstruction, repair, and control of public highways, as provided under this chapter.

(5) All money that on May 22, 1933, was to be paid into the state highway fund under contemplation of any statute in force as of May 22, 1933.

(6) All money that may at any time be appropriated from the state treasury.

(7) Any part of the state highway fund unexpended at the expiration of any fiscal year, which shall remain in the fund and be available for the succeeding years.

(8) Any money credited to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).

(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.

(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.

**(11) Any money distributed to the state highway fund under IC 8-14-14, IC 8-15.5, or IC 8-15.7.**

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1008 as introduced.)

ESPICH, Chair

Committee Vote: yeas 14, nays 10.

#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 50, line 25, after "(g)" insert "**The authority shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the authority of the request for proposals to potential offerors.**".

(Reference is to HB 1008 as printed January 26, 2006.)

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EH 1008—LS 7108/DI 44+



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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 35, line 2, after "IC 8-15-2-14(j)," insert **"and subject to section 8 of this chapter,"**.

Page 35, line 19, delete "User" and insert **"Subject to section 8 of this chapter, user"**.

Page 36, line 2, delete "A" and insert **"Subject to section 8 of this chapter, a"**.

Page 36, between lines 38 and 39, begin a new paragraph and insert:  
**"Sec. 8. (a) As used in this section, "passenger motor vehicle" means:**

**(1) a passenger motor vehicle (as defined in IC 9-13-2-123); or  
(2) a truck (as defined in IC 9-13-2-188) that has a declared gross weight of not more than seven thousand (7,000) pounds; that is owned or leased by an individual and is not used for commercial purposes.**

**(b) The user fees charged by the operator of the Indiana Toll Road under a public-private agreement for the use of the Indiana Toll Road by passenger motor vehicles that are owned or leased by individuals who reside in a county traversed by the Indiana Toll Road may not exceed the user fees for passenger motor vehicles that were in effect January 1, 2006.**

**(c) The operator of the Indiana Toll Road under a public-private agreement shall take the steps necessary to implement this section. The bureau of motor vehicles and other state agencies shall cooperate with the operator as necessary to implement this section.**

**(d) This section expires July 1, 2016."**

(Reference is to HB 1008 as printed January 26, 2006.)

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation and to make an appropriation.

EH 1008—LS 7108/DI 44+



Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 4-4-11-15.6, AS ADDED BY P.L.214-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15.6. In addition to the powers listed in section 15 of this chapter, the authority may:

(1) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire obligations issued by any entity authorized to acquire, finance, construct, or lease capital improvements under IC 5-1-17; ~~and~~

(2) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northwest Indiana regional development authority established by IC 36-7.5-2-1; **and**

**(3) issue bonds under terms and conditions determined by the authority and use the proceeds of the bonds to acquire any obligations issued by the northeast Indiana regional development authority established by IC 36-7.6-2-1."**

Page 7, between lines 9 and 10, begin a new paragraph and insert:

**"Sec. 7. Money in the fund may be used for a purpose other than a purpose that is specified in this chapter on the effective date of this chapter only if the general assembly authorizes the purpose in a statute approved by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate."**

Page 13, line 22, after "pay" insert ":

**(1) for the calendar years 2006 and 2007,".**

Page 13, line 24, beginning with "(1)", begin a new line double block indented.

Page 13, line 24, strike "(1)" and insert "(A)".

Page 13, line 25, beginning with "(2)", begin a new line double block indented.

Page 13, line 25, strike "(2)" and insert "(B)".

Page 13, line 28, after "IC 36-7.5-4-1" delete ". A payment required by this".

Page 13, line 29, delete "subsection may be made".

Page 13, line 30, after "IC 8-15.5-11" delete "." and insert "; **and**

**(2) for each of the calendar years 2008 through 2015, an amount equal to ten million dollars (\$10,000,000) to the development authority fund established under IC 36-7.5-4-1 from the toll road fund in accordance with IC 8-15.5-11."**

Page 13, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 10. IC 8-15-2-14.8 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2006]: **Sec. 14.8. (a)** As used in this section, "development authority" refers to the northeast Indiana regional development authority established by IC 36-7.6-2-1.

**(b)** Subject to the trust agreement of any outstanding bonds, the authority shall distribute to the development authority in calendar year 2007 and calendar year 2008 from revenues accruing to the authority from the toll road at least five million dollars (\$5,000,000) and not more than ten million dollars (\$10,000,000) each year. The amount of the distribution for a year shall be determined by the authority. The amount to be distributed each year shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of 2007 and 2008. The amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.6-4-1.

**(c)** Subject to the trust agreement for any outstanding bonds and subject to the requirements of subsection (d), after 2008 the authority may distribute to the development authority amounts from revenues accruing to the authority from the toll road. The amount of any distribution for a year shall be determined by the authority. Any amounts to be distributed for the year under this subsection shall be distributed in equal quarterly amounts before the last business day of January, April, July, and October of the year. Any amounts distributed under this subsection shall be deposited in the development authority fund established under IC 36-7.6-4-1.

**(d)** A distribution may be made by the authority to the development authority under subsection (c) only after the budget committee has reviewed the development authority's comprehensive strategic development plan under IC 36-7.6-3-4 and the director of the office of management and budget has approved the comprehensive strategic development plan.

**(e)** If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay:

**(1)** for the calendar year 2007, an amount equal to the greater of zero (0) or the result of:

**(A)** ten million dollars (\$10,000,000); minus

**(B)** any amounts transferred to the development authority

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under this section before the sale or lease;  
to the development authority fund established under  
IC 36-7.6-4-1 from the state general fund or from the toll road  
fund in accordance with IC 8-15.5-11; and

(2) for each of the calendar years 2008 through 2016, an  
amount equal to ten million dollars (\$10,000,000) to the  
development authority fund established under IC 36-7.6-4-1  
from the toll road fund in accordance with IC 8-15.5-11.

(f) Amounts distributed or paid to the development authority  
under this section may be used for any purpose of the development  
authority authorized under IC 36-7.6.

(g) The amounts necessary to make any distributions or  
payments required or authorized by this section are  
appropriated."

Page 39, line 38, after ";," delete "and".

Page 39, between lines 38 and 39, begin a new line block indented  
and insert:

**"(3) with respect to the northeast Indiana regional  
development authority:**

**(A) all or part of a distribution described in IC 8-15-2-14.8;  
and**

**(B) the acquisition, construction, renovation, improvement,  
and equipping of a project (as defined in IC 36-7.6-1);  
and".**

Page 39, line 39, delete "(3)" and insert "(4)".

Page 40, line 12, delete "and".

Page 40, between lines 12 and 13, begin a new line double block  
indented and insert:

**"(C) the northeast Indiana regional development authority  
established in IC 36-7.6-2; and".**

Page 40, line 13, delete "(C)" and insert "(D)".

Page 41, line 36, delete "and" and insert **"(3) the northeast Indiana  
regional development authority; and".**

Page 41, line 37, delete "(3)" and insert "(4)".

Page 42, between lines 34 and 35, begin a new paragraph and insert:

**"(d) Before July 1, 2006, and every year thereafter, the  
northeast Indiana regional development authority may submit to  
the authority a request for a distribution from the eligible project  
account. The request must include a list of the eligible projects  
that:**

**(1) are to be carried out by the northeast Indiana regional  
development authority during the state fiscal year beginning**

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on July 1 of that year; and

(2) require a distribution of money from the eligible project account.

The list must include the amount of distributions requested for each project during the fiscal year, the total amount of distributions requested for all projects during the fiscal year, and the proposed schedule of distributions for each project. The authority may approve, modify and approve, or reject a request made under this section. The authority shall make any distributions in the amounts and in accordance with the schedule as approved by the authority and shall pay the distributions from the eligible project account to the northeast Indiana regional development authority for deposit in the general account of the development authority fund established under IC 36-7.6-4-1."

Page 42, line 35, delete "(d)" and insert "(e)".

Page 43, between lines 13 and 14, begin a new paragraph and insert:

"(e) Any use or withdrawal of money from the toll road fund, which would result in the inability of the treasurer of state to distribute the money required to be distributed to the northwest Indiana regional development authority pursuant to IC 8-15-2-14.7 or to the northeast Indiana regional development authority pursuant to IC 8-15-2-14.8, must be made by an act passed by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate, and the use or withdrawal may not occur until the bill is enacted and becomes effective.

Sec. 8. Money in the fund may be used for a purpose other than a purpose that is specified in this chapter on the effective date of this chapter only if the general assembly authorizes the purpose in a statute approved by at least seventy-five percent (75%) of the members of the house of representatives and by at least seventy-five percent (75%) of the members of the senate."

Page 77, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 42. IC 36-7.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

#### **ARTICLE 7.6. NORTHEAST INDIANA REGIONAL DEVELOPMENT AUTHORITY**

##### **Chapter 1. Definitions**

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

Sec. 2. "Airport authority" refers to an airport authority

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established under IC 8-22-3.

**Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.**

**Sec. 4. "Bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.**

**Sec. 5. "Development authority" refers to the northeast Indiana regional development authority established by IC 36-7.6-2-1.**

**Sec. 6. "Development board" refers to the governing body appointed under IC 36-7.6-2-3.**

**Sec. 7. "Economic development project" means an economic development project described in IC 6-3.5-7-13.1(c).**

**Sec. 8. "Eligible county" refers to the following counties:**

- (1) A county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).**
- (2) A county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950).**
- (3) A county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600).**

**Sec. 9. "Eligible political subdivision" means the following:**

- (1) An airport authority.**
- (2) A regional transportation authority.**

**Sec. 10. "Project" means an airport authority project, an economic development project, or a regional transportation authority project.**

**Sec. 11. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3-2.**

**Sec. 12. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3.**

## **Chapter 2. Development Authority and Board**

**Sec. 1. The northeast Indiana regional development authority is established as a separate body corporate and politic to carry out the purposes of this article by:**

- (1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and**
- (2) funding and developing airport authority projects and services, regional transportation authority projects and**

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services, and economic development projects in the eligible counties.

**Sec. 2.** The development authority may carry out its powers and duties under this article in an eligible county.

**Sec. 3. (a)** The development authority is governed by the development board appointed under this section.

**(b)** The development board is composed of the following nine (9) members:

**(1)** Three (3) members appointed by the governor.

**(2)** The following members from a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000):

**(A)** One (1) member appointed by the county executive.

**(B)** One (1) member appointed by county fiscal body.

**(3)** The following members from a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950):

**(A)** One (1) member appointed by the county executive.

**(B)** One (1) member appointed by the county fiscal body.

**(4)** The following members from a county having a county having a population of more than thirty-three thousand two hundred (33,200) but less than thirty-three thousand six hundred (33,600):

**(A)** One (1) member appointed by the county executive.

**(B)** One (1) member appointed by the county fiscal body.

**(c)** A member appointed to the development board must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

**(1)** Air transportation.

**(2)** Regional transportation development.

**(3)** Regional economic development.

**(4)** Business or finance.

**(d)** An individual or entity required to make an appointment under subsection (b) must make the initial appointment before September 1, 2006. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2006, the governor shall instead make the initial appointment.

**Sec. 4. (a)** Except as provided in subsection (b) for the initial appointments to the development board, a member appointed to the development board serves a four (4) year term. However, a

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member serves at the pleasure of the appointing authority. A member may be reappointed to subsequent terms.

(b) The terms of the initial members appointed to the development board are as follows:

- (1) Each initial member appointed by the governor shall serve a term of four (4) years.
- (2) The initial member appointed under section 3(b)(2)(A) of this chapter shall serve a term of three (3) years.
- (3) The initial member appointed under section 3(b)(3)(A) of this chapter shall serve a term of three (3) years.
- (4) The initial member appointed under section 3(b)(2)(B) of this chapter shall serve a term of two (2) years.
- (5) The initial member appointed under section 3(b)(3)(B) of this chapter shall serve a term of two (2) years.

(c) If a vacancy occurs on the development board, the appointing authority that made the initial appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) Each member appointed to the development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to the development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

Sec. 5. (a) The governor shall designate a member of the development board appointed by the governor to serve as chair of the development board until January 2013. At the election under subsection (b) in 2013 and each year thereafter, the chair shall be elected from among the members of the development board.

(b) In January of each year, the development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

- (1) After December 31, 2012, a chair.
- (2) A vice chair.
- (3) A secretary-treasurer.

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(c) Not more than two (2) members from any particular county may serve as an officer described in subsection (a) or elected under subsection (b). The affirmative vote of at least five (5) members of the development board is necessary to elect an officer under subsection (b).

(d) An officer elected under subsection (b) serves from the date of the officer's election until the officer's successor is elected and qualified.

Sec. 6. (a) The development board shall meet at least quarterly.

(b) The chair of the development board or any two (2) members of the development board may call a special meeting of the development board.

(c) Five (5) members of the development board constitute a quorum.

(d) The affirmative votes of at least five (5) members of the development board are necessary to authorize any action of the development authority.

(e) Notwithstanding any other provision of this article, the minimum of five (5) affirmative votes required under subsection (d) to take any of the following actions before January 1, 2013, must include the affirmative vote of the member designated by the governor to serve as the chair of the board:

- (1) Making loans, loan guarantees, or grants or providing any other funding or financial assistance for projects.
- (2) Acquiring or condemning property.
- (3) Entering into contracts.
- (4) Employing an executive director or any consultants or technical experts.
- (5) Issuing bonds or entering into a lease of a project.

Sec. 7. The development board may adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

Sec. 8. (a) The development authority must comply with IC 5-16-7 (common construction wage), IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from the development authority or enters into a lease with the development authority must comply with applicable federal, state, and local public purchasing and bidding laws and

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regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

- (1) assign or sell a lease for property to the development authority; or
- (2) enter into a lease for property with the development authority;

at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by the development authority, the development authority shall set a goal for participation by minority business enterprises of fifteen percent (15%) and women's business enterprises of five percent (5%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goals under this subsection, the authority shall take into account historical precedents in the same market.

Sec. 9. The office of management and budget shall contract with a certified public accountant for an annual financial audit of the development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to the development authority. The certified public accountant shall present an audit report not later than four (4) months after the end of the development authority's fiscal year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period. The development authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the development authority. The development

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authority shall pay the cost of any audit by the state board of accounts.

**Chapter 3. Development Authority Powers and Duties**

**Sec. 1. The development authority shall do the following:**

- (1) Assist in the coordination of local efforts concerning projects.
- (2) Assist an airport authority and a regional transportation authority in coordinating regional transportation and economic development efforts.
- (3) Fund projects as provided in this article.

**Sec. 2. (a) The development authority may do any of the following:**

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.
- (5) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.
- (6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of an airport authority or a regional transportation authority.
- (7) Provide funding to assist an airport authority located in an eligible county in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.
- (8) Provide funding for economic development projects in an eligible county.

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(9) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county.

(10) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(11) Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.

(12) Sue, be sued, plead, and be impleaded.

(13) Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.

(14) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(15) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(16) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(17) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

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- (3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

**Sec. 3.** The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

**Sec. 4. (a)** The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

- (1) The proposed projects to be undertaken or financed by the development authority.
- (2) The following information for each project included under subdivision (1):
  - (A) Timeline and budget.
  - (B) The return on investment.
  - (C) The projected or expected need for an ongoing subsidy.
  - (D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2009, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget.

#### **Chapter 4. Financing; Issuance of Bonds; Leases**

**Sec. 1. (a)** The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

- (1) Amounts distributed under IC 8-15-2-14.8.
- (2) Funds received from the federal government.
- (3) Appropriations to the fund by the general assembly.
- (4) Other local revenue appropriated to the fund by a political subdivision.
- (5) Gifts, donations, and grants to the fund.

(c) The development authority fund shall be administered by the development authority.

(d) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

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**Sec. 2. (a)** Subject to subsection (h), the development authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring real or personal property, including existing capital improvements;
  - (2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or
  - (3) funding or refunding bonds issued under this chapter, IC 8-22-3, IC 36-9-3, or prior law.
- (b) The bonds are payable solely from:
- (1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and
  - (2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.
- (c) The bonds must be authorized by a resolution of the development board.
- (d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.
- (e) The bonds must mature within forty (40) years.
- (f) The board shall sell the bonds only to the Indiana finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana finance authority.
- (g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:
- (1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
  - (2) acquisition of a site and clearing and preparing the site for construction;
  - (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
  - (4) architectural, engineering, consultant, and attorney's fees;
  - (5) incidental expenses in connection with the issuance and sale of bonds;

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- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

Sec. 3. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

Sec. 4. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;
- (3) set forth the rights and remedies of bondholders and trustees; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made,

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against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

**Sec. 5. (a)** Bonds issued under IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

**(b)** An eligible political subdivision may:

- (1)** lease all or a part of land or a project or projects to the development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds to refund those bonds; and
- (2)** sell all or a part of land or a project or projects to the development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

**Sec. 6. (a)** Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

**(b)** A lease of land or a project from the development authority to an eligible political subdivision:

- (1)** may not have a term exceeding forty (40) years;
- (2)** may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;
- (3)** may contain provisions:
  - (A)** allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and
  - (B)** requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;
- (4)** may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease;
- (5)** must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the

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project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a project;

(7) may provide that the eligible political subdivision shall agree to:

(A) pay any taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the development authority from any funds legally available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and

(8) must provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established under section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:

(A) net revenues of the project;

(B) any other funds available to the eligible political subdivision; or

(C) both sources described in clauses (A) and (B).

**Sec. 7.** This chapter contains full and complete authority for leases between the development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

**Sec. 8.** If the lease provides for a project or improvements to a project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

**Sec. 9.** The development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These

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agreements shall be recorded with the recorder of the county in which the project is located.

**Sec. 10. (a)** An eligible political subdivision may lease for a nominal lease rental, or sell to the development authority, one (1) or more projects or parts of a project or land upon which a project is located or is to be constructed.

**(b)** Any lease of all or a part of a project by an eligible political subdivision to the development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

**(c)** An eligible political subdivision may sell property to the development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority.

**Sec. 11.** If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

**Sec. 12. (a)** All:

**(1)** property owned by the development authority;  
**(2)** revenues of the development authority; and  
**(3)** bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds; are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

**(b)** All securities issued under this chapter are exempt from the registration requirements of IC 23-2-1 and other securities registration statutes.

**Sec. 13.** Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

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**Sec. 14. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.**

**Sec. 15. The general assembly covenants that it will not:**

- (1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or**
- (2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter."**

Page 78, between lines 6 and 7, begin a new paragraph and insert:  
**"SECTION 48. [EFFECTIVE JULY 1, 2006] (a) As used in this SECTION, "eligible county" has the meaning set forth in IC 36-7.6-1-8, as added by this act.**

**(b) The general assembly finds the following:**

- (1) Each eligible county faces unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type than those faced by other units of local government in Indiana.**
- (2) A unique approach is required to fully take advantage of the economic development potential of northeastern Indiana.**
- (3) The powers and responsibilities provided to the northeast Indiana regional development authority established by IC 36-7.6-2-1, as added by this act, are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air and other regional transportation services, projects, and facilities, and economic development projects in the eligible counties."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.)

WALORSKI

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

**EH 1008—LS 7108/DI 44+**



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Page 33, between lines 23 and 24, begin a new line blocked left and insert:

**"However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision."**

(Reference is to HB 1008 as printed January 26, 2006.)

BUDAK

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 54, between lines 24 and 25, begin a new paragraph and insert:

**"Sec. 7. (a) This section applies to a metropolitan statistical area, as defined by the United States Office of Management and Budget, in Indiana that is served by more than one (1) interstate system highway, street, or road.**

**(b) As used in this section, "interstate system" has the meaning set forth in IC 8-23-1-25.**

**(c) In establishing the route of a qualified project through a metropolitan statistical area, the authority shall consider routes that have the least disruptive influence on established businesses and residents. To the extent practicable, the authority shall consider using:**

**(1) an established interstate system highway, street, or road in the metropolitan statistical area; or**

**(2) a route that is west of established business corridors in a less densely used part of the metropolitan statistical area;**

**as the route of a qualified project to avoid the disruption of neighborhoods and business areas."**

(Reference is to HB 1008 as printed January 26, 2006.)

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 25, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 32. IC 8-15-3-36 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) As used in this section, "toll collection facility" means any booth or collectors' house where drivers are required to pay tolls.**

**(b) A United States flag shall be displayed at each toll collection facility located on:**

- (1) a tollway (as defined in section 7 of this chapter);**
- (2) a toll road project (as defined in IC 8-15-2-4(4)); and**
- (3) a qualifying project (as defined in IC 8-15.7-2-15).**

**(c) The department shall adopt rules under IC 4-22-2 for the proper care, custody, and display of the United States flag at each toll collection facility."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 26, 2006.).

STILWELL

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 SENATE MOTION

Madam President: I move that Senator Hershman be added as second sponsor of Engrossed House Bill 1008.

MEEKS

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 COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1008, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

EH 1008—LS 7108/DI 44+



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Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1008 as reprinted February 1, 2006.)

MEEKS, Chairperson

Committee Vote: Yeas 8, Nays 4.

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SENATE MOTION

Madam President: I move that Senator Wyss be added as cosponsor of Engrossed House Bill 1008.

MEEKS

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 12, line 7, after "person." insert "**However, the terms of the trust must provide that the trust terminates when no funds remain in the trust.**".

Page 12, line 21, delete "principal of the trust may not be diminished" and insert "**principal and interest of the trust may not be diminished before the balance in the trust reaches one billion dollars (\$1,000,000,000).**".

Page 12, delete line 22.

Page 12, line 26, delete "all interest accruing from the investment of the" and insert "**the treasurer of state shall annually:**

**(1) transfer all interest accruing to the trust; plus**

**(2) the greater of:**

**(A) one hundred million dollars (\$100,000,000) of the principal of the trust; or**

**(B) the remaining balance of the principal of the trust; to the major moves construction fund.**".

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Page 12, delete lines 27 through 30.

(Reference is to EHB 1008 as printed February 24, 2006.)

MEEKS

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 9, line 36, after "budget." insert **"The regional development authority shall pay at least ten million dollars (\$10,000,000) of the distribution received under this subdivision to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2)."**

Page 9, line 38, delete "county that establishes a local" and insert **"of the following counties:"**.

Page 9, delete line 39.

Page 10, line 3, after "IC 8-14-16-1(7)." insert **"The county shall pay at least five million dollars (\$5,000,000) of the distribution received under this clause to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2)."**

Page 10, line 37, delete "fund under" and insert **"money received by the authority under a public-private agreement concerning the Indiana Toll Road entered into under IC 8-15.5"**.

Page 10, line 38, delete "sections 6 and 7 of this chapter".

Page 10, line 41, delete "a" and insert **"that"**.

Page 10, line 41, delete "concerning the Indiana" and insert **"."**.

Page 10, line 42, delete "Toll Road entered into under IC 8-15.5".

Page 11, between lines 15 and 16, begin a new line block indented and insert:

**"(7) Amounts allocated to the bond retirement account of the toll road fund under IC 8-15.5-11-4.**

**(8) Amounts allocated to the administration account of the toll road fund under IC 8-15.5-11-4."**

Page 11, line 32, after "IC 8-15.5-11" insert **"to be used exclusively for the provision of highways, roads, and bridges"**.

Page 11, line 33, delete "highways, streets, roads, and other related transportation" and insert **"those facilities."**

Page 11, delete line 34.

Page 11, line 36, delete "a" and insert **"the"**.



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Page 11, line 36, after "purpose" insert **"provided in this section"**.

Page 13, delete lines 34 through 42.

Page 14, delete lines 1 through 2.

Page 14, line 3, delete "Sec. 5." and insert **"Sec. 2."**.

Page 14, line 4, delete "by a county".

Page 14, delete lines 6 through 15, begin a new paragraph and insert:

**"Sec. 3. (a) Except as provided in subsection (b), money distributed to a county described in section 1 of this chapter from the major moves construction fund under IC 8-14-14-6(a)(3) shall be distributed by the county auditor among the county and each of the cities and towns in the county that is eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1, in the same proportion among the county, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.**

**(b) Money designated for payment to an airport authority under IC 8-14-14-6(a)(3) is not subject to distribution under this section."**

Page 14, line 16, delete "Sec. 9." and insert **"Sec. 4."**.

Page 14, line 16, delete "described in section 1" and insert **", city, or town that receives a distribution under section 3"**.

Page 14, line 18, after "county" insert **", city, or town"**.

Page 14, line 19, delete "IC 8-14-14." and insert **"section 3 of this chapter."**

Page 14, line 20, delete "county auditor" and insert **"fiscal officer of the county, city, or town"**.

Page 14, line 21, delete "The county fiscal body, after consulting with the county" and insert **"Subject to subsection (f), the fiscal body of the county, city, or town"**.

Page 14, line 22, delete "executive,".

Page 14, line 23, delete "section 10" and insert **"section 5"**.

Page 14, between lines 28 and 29, begin a new paragraph and insert:

**"(f) A county fiscal body must consult with the county executive before making an appropriation under this section."**

Page 14, line 29, delete "Sec. 10." and insert **"Sec. 5."**.

Page 14, delete lines 31 through 42, begin a new line block indented and insert:

**"(1) Construction of highways, roads, and bridges.**

**(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional**

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**development authority may make expenditures under IC 36-7.5."**

Page 15, delete lines 1 through 29.

Page 15, line 30, delete "(11)" and insert "(3)".

Page 15, line 30, after "projects" insert **"(as defined in IC 6-3.5-7-13.1)"**.

Page 15, line 32, delete "(12)" and insert "(4)".

Page 15, line 34, delete "(13)" and insert "(5)".

Page 16, line 29, delete "." and insert **"to a state agency or political subdivision."**

Page 18, between lines 31 and 32, begin a new paragraph and insert:

**"SECTION 9. IC 8-15-2-5.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.2. The authority may not sell, convey, or mortgage a toll road project."**

Page 25, delete lines 40 through 42.

Page 26, delete lines 1 through 24.

Page 27, between lines 33 and 34, begin a new paragraph and insert:

**"Sec. 3. The general assembly finds and determines that:**

**(1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads, and therefore alternative funding sources should be developed to supplement public revenue sources;**

**(2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1); and**

**(3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article."**

Page 30, line 8, after "Sec. 7." insert "(a)".

Page 30, between lines 12 and 13, begin a new paragraph and insert:

**"(b) In determining whether one (1) or more responsible offerors are reasonably capable of being selected for a public-private agreement, the authority must consider all of the following:**

**(1) The responsible offeror's expertise, qualifications, competence, skills, and know-how to perform its obligations under the proposed public-private agreement in accordance with the public-private agreement.**

**(2) The financial strength of the responsible offeror, including its capitalization.**

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(3) The experience of the responsible offeror in operating toll roads and highways and other similar projects and the quality of the responsible offeror's past or present performance on other similar or equivalent projects.

(4) The integrity, background, and reputation of the responsible offeror, including the absence of criminal, civil, or regulatory claims or actions against the responsible offeror.

(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider the offeror or operator as well as any private entity that controls the actions of the offeror or operator."

Page 40, between lines 27 and 28, begin a new line block indented and insert:

"(5) Amounts transferred to the fund under subsection (i)."

Page 41, between lines 2 and 3, begin a new paragraph and insert:

"(i) As soon as practicable after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall determine the total balance remaining in all toll road funds and accounts established under IC 8-15-2. Subject to any applicable trust indentures securing toll road bonds, the authority may retain from those funds and accounts the amounts necessary to pay outstanding obligations with respect to the operation of the Indiana Toll Road incurred before the effective date of the public-private agreement, and shall transfer all remaining balances in the toll road funds and accounts to the fund."

Page 42, line 4, after "to" insert "the".

Page 42, line 4, delete "account." and insert "fund."

Page 42, between lines 4 and 5, begin a new line blocked left and insert:

"In addition, any amounts transferred to the fund under section 3(i) of this chapter after the date described in this subsection shall be transferred to the major moves construction fund."

Page 42, line 38, delete "any" and insert "at least a one percent (1%)".

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Page 42, line 40, delete "any" and insert "**at least a one percent (1%)**".

(Reference is to EHB 1008 as printed February 24, 2006.)

MEEKS

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1008 be amended to read as follows:

Page 50, delete lines 14 through 17.

Re-number all SECTIONS consecutively.

(Reference is to EHB 1008 as printed February 24, 2006.)

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